

# EIGHTIETH DAY

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TUESDAY, MAY 20, 1997

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## PROCEEDINGS

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Monsignor Edward F. Jordan, Saint Theresa Catholic Church, Austin, offered the invocation as follows:

Lord God, we thank You for the skills, gifts, and graces You have given to the Members of this Senate. We seek Your guidance to help them use their wit and wisdom in the service of the people of Texas. Let them be neither intimidated by the powerful nor unmindful of the weak and vulnerable. Help them to seek justice in the face of the tragic reality of crime. Make them good stewards of taxes they must administer for the common good of the citizens of this state. Finally, keep them respectful of each other when one encounters differences of viewpoint or policy. For this we pray. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## **SENATE RESOLUTION ON FIRST READING**

The following resolution was introduced, read first time, and referred to the committee indicated:

**SCR 100** by Barrientos

Directing that the Business Office/Warehouse on the Texas School for the Deaf campus be named the Elisha M. Pease Building.

To Committee on Administration.

(Senator Truan in Chair)

## **SENATE RESOLUTION 710**

Senator Barrientos offered the following resolution:

WHEREAS, On May 3, 1997, the Park Crest Middle School beginner band from Pflugerville performed at the Schlitterbahn Wave Revues Music Festival in New Braunfels; and

WHEREAS, The band earned superior first division ratings from each of the three judges; and

WHEREAS, Made up of 130 students from the sixth grade, the Park Crest Middle School band students were designated the best beginner band of the festival; and

WHEREAS, The Park Crest band also earned a special "best in class" trophy to spotlight the unique accomplishment; and

WHEREAS, For the second year in a row, the Park Crest beginner band was chosen as the festival's outstanding beginner band; and

WHEREAS, The newest middle school in the Pflugerville Independent School District, Park Crest is only two years old; the band program consists of half the student enrollment of 400 students; and

WHEREAS, The success of the band brings honor to the students, their families, their school, and their community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby congratulate the Park Crest Middle School beginner band on its superb accomplishment; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the school as an expression of the high esteem and regard of the Texas Senate.

The resolution was again read.

The resolution was previously adopted on Monday, May 12, 1997.

#### **GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate members of the Park Crest Middle School Beginners Band and their teacher.

The Senate welcomed its guests.

#### **SENATE RESOLUTION 722**

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to recognize the members of the Park Crest Middle School Science Olympiad Team for winning the 1997 Texas Science Olympiad State Tournament held on February 22 at Pflugerville High School; and

WHEREAS, Thirty-five schools from around the state competed in the tournament that consisted of 24 academic and engineering events; by virtue of winning first place, the Park Crest team qualifies to represent the State of Texas at the National Science Olympiad tournament in Raleigh, North Carolina; and

WHEREAS, The Science Olympiad was created in 1983 as an alternative to science fairs and single-discipline tournaments; it has grown to include more than 12,000 participants in all 50 states; and

WHEREAS, Through teamwork, group planning, and cooperation, students, teachers, coaches, principals, business leaders, and parents are all bonded together as a team working toward a goal; and

WHEREAS, With emphasis on advanced learning in science through active, hands-on, group participation, Science Olympiad is devoted to improving the quality of science education and increasing student interest in science; recognition is given to both students and teachers for outstanding achievement in science education; and

WHEREAS, The students and their coaches prepare for tournaments on their own time, and their peers, the school faculty, and the community play a vital role in helping the team make their goals become realities; and

WHEREAS, The members of the Park Crest Middle School Science Olympiad Team have displayed superior ability and determination; the students and their coaches have brought honor to their school, their community, and their state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend the coaches of the Park Crest Middle School Science Olympiad Team, John Thomas, Becky Merkord, Adrian Carrales, and Debra Malone, and extend congratulations to the following Olympians for their outstanding performances: Brian Peterson, Krystal Bloemker, Sara Merkord, Ryan Lawhon, Jamil Lawrence, Mark LaBreyere, Chase Gregory, Ian Moede, Ian Robertson, Sarah Daniel, Sarah Sheffield, Ashley Todd, Luke DeRosa, Jacob Brown, J. C. Ferguson, Nasim Muller, Brett Williams, and Linoy Mathen; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Park Crest Middle School as an expression of the esteem of the Texas Senate.

The resolution was again read.

The resolution was previously adopted on Tuesday, May 13, 1997.

#### **GUESTS PRESENTED**

Senator Barrientos was again recognized and introduced to the Senate members of the Park Crest Middle School Science Olympiad Team and their coach.

The Senate welcomed its guests.

#### **SENATE RESOLUTION 771**

Senator Wentworth offered the following resolution:

WHEREAS, On August 17, 1996, the City of San Antonio welcomed home its newest and brightest young hero, Joshua Clark Davis, on his return from the 1996 Summer Olympic Games in Atlanta, where he captured three team gold medals in swimming events; and

WHEREAS, The San Antonio native is the only male athlete to win three gold medals at the Centennial Summer Olympic Games; Josh Davis is a member of the United States National Swimming Team, and his remarkable performances in competition came in the 4x200 and 4x100-meter relays and in the 4x100 individual medley; and

WHEREAS, In recognition of his brilliant achievement at the Centennial Summer Olympics, Josh was named Sportsman of the Year for 1996 by the

*San Antonio Express-News*, an honor he treasures as highly as winning his gold medals; and

WHEREAS, Joshua Davis is believed to be the first native San Antonian to win an Olympic gold medal in any sport and is the first San Antonio high school graduate to make a United States Olympic swimming team; and

WHEREAS, A 1990 graduate of Churchill High School, Josh Davis was a member of the school's male swimming team that won the Texas State Swimming Championships each of the four years he competed with the team; and

WHEREAS, The son of Joan and Michael D. Davis of San Antonio, Josh is married to the former Shantel Cornelius; the couple is attending The University of Texas at Austin, where Josh is completing his final semester majoring in speech and communication and Shantel is a senior member of the women's volleyball team; and

WHEREAS, His leadership, determination, and ability to perform his best under pressure have combined to make this All-American an exemplary athlete who is a credit to his team, his family, his town, and his state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby extend heartfelt congratulations to Joshua Clark Davis for his magnificent accomplishments at the 1996 Summer Olympic Games and extend best wishes to him for continued success in the next Summer Olympics, in Sydney, Australia; and, be it further

RESOLVED, That a copy of this Resolution be prepared for this distinguished Texan as an expression of the high esteem of the Texas Senate.

The resolution was again read.

The resolution was previously adopted on Sunday, May 18, 1997.

#### **GUEST PRESENTED**

Senator Wentworth was recognized and introduced to the Senate Joshua Clark Davis of San Antonio.

The Senate welcomed its guest.

#### **CAPITOL PHYSICIAN**

The Presiding Officer recognized Senator Luna, who presented Dr. Frank Bryant of San Antonio as the "Doctor for the Day."

Dr. Bryant, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was made welcome by the Senate.

#### **GUEST PRESENTED**

Senator Ellis was recognized and introduced to the Senate Ronald Kirk, Mayor of Dallas.

The Senate welcomed Mayor Kirk.

**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Madla submitted the following report from the Committee on Nominations:

**TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE:**

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be Members of the CREDIT UNION COMMISSION: Garold R. Base, Collin County; Richard Allen Glasco, Jr., Travis County; Robert S. Hayes, Randall County; L. Gail Mackie, Tarrant County; J. Howell "Hal" Thomas, Harris County.

To be Members of the TEXAS OPTOMETRY BOARD: Carolyn R. Carman-Merrifield, O.D., Tarrant County; Kevin D. Dewolfe, O.D., Travis County; Katherine Michelle Garrett, Palo Pinto County; Mark A. Latta, O.D., Randall County.

To be Members of the TEXAS SOUTHERN UNIVERSITY BOARD OF REGENTS: Albert C. Black, Jr., Dallas County; Thomas H. Friedberg, Fort Bend County; Willard L. Jackson, Jr., Harris County.

To be Members of the TEXAS STATE UNIVERSITY SYSTEM BOARD OF REGENTS: John Philip Hageman, Williamson County; Thomas M. Moeller, Jefferson County; Nancy R. Neal, Lubbock County; Floyd Nickerson, Taylor County; Pollyanna Allison Stephens, Tom Green County; Macedonia "Massey" Villarreal, Fort Bend County.

To be Members of the TEXAS WOMAN'S UNIVERSITY BOARD OF REGENTS: Marie Chapman Martch, Bell County; Douglas Bert Myers, Collin County; Cynthia Shepard Perry, Ed.D., Harris County.

To be Members of the TEXAS WORKFORCE COMMISSION: Bill Hammond, Travis County; Diane Doehne Rath, Bexar County.

To be a Member of the AGRICULTURE RESOURCES PROTECTION AUTHORITY: Gary Johnson, Dallam County.

To be Members of the TEXAS BOARD OF ARCHITECTURAL EXAMINERS: Steven Ellinger, A.I.A., Taylor County; Chao Chiung Lee, A.I.A., Harris County; Dorothy Virginia Roberts, Travis County.

To be Members of the TEXAS SCHOOL FOR THE DEAF GOVERNING BOARD: Beatrice M. Burke, Howard County; Aulby Laurence "Larry" Gillett, Tom Green County.

To be Members of the TEXAS HISTORICAL COMMISSION: J. P. Bryan, Harris County; Chris John Carson, Bexar County; Frank W. Gorman, Jr., El Paso County; Carl Randall McQueary, Bell County; Linda A. Valdez, Bexar County; Clinton P. White, Wharton County.

To be Members of the TEXAS COUNCIL ON OFFENDERS WITH MENTAL IMPAIRMENTS: James Howell Cromwell, Cherokee County; Carl Hays, Dallas County; Corinne Ann Mason, Collin County.

To be PRESIDING JUDGE OF THE EIGHTH ADMINISTRATIVE JUDICIAL REGION: Roger Jeffrey "Jeff" Walker, Tarrant County.

To be Members of the TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING: Douglas Larkin Bush, Harris County; Jean Hale Matney, Tarrant County; Timothy B. Rarus, Travis County; Robin E. Riccardi, Lubbock County; Benna Timperlake, Nueces County; Eva Davie Williams, Harris County.

To be a Member of the BOARD FOR LEASE OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE LANDS: Alfred M. "Mac" Stringfellow, Bexar County.

To be Members of the MIDWESTERN STATE UNIVERSITY BOARD OF REGENTS: Mac Wilmer Cannedy, Jr., Wichita County; Barbara Jean Dorman, Hale County; Elizabeth A. Gifford, Randall County; Arnold Wray Oliver, Wichita County.

To be Members of the SOUTHWEST TRAVIS COUNTY WATER DISTRICT BOARD OF DIRECTORS: D. Jarrett Bates, Travis County; Kirby L. Brown, Travis County; Kevin Cromack, Travis County; Colin G. Haza, Travis County; Mark C. Kelling, Travis County; Kenneth Bruce Levine, Travis County; Duncan C. Norton, Travis County; Darlene Rojas-Wilson, Travis County; John Francis Williams, Travis County.

#### NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Madla gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1975

Senator Sibley submitted the following Conference Committee Report:

Austin, Texas  
May 20, 1997

Honorable Bob Bullock  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1975** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SIBLEY	SMITHEE
CARONA	BONNEN
HARRIS	BURNAM
LUCIO	OLIVO
MADLA	WISE
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 758**

Senator Shapleigh submitted the following Conference Committee Report:

Austin, Texas  
May 16, 1997

Honorable Bob Bullock  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 758** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHAPLEIGH	PLACE
DUNCAN	GOODMAN
WEST	WEST
PATTERSON	KING
ZAFFIRINI	SERNA
On the part of the Senate	On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the creation of a graffiti offense, to the criminal, civil, and family law consequences of engaging in conduct described by the offense, and to the regulation of customer access to aerosol paint.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Chapter 28, Penal Code, is amended by adding Section 28.08 to read as follows:

Sec. 28.08. GRAFFITI. (a) A person commits an offense if with aerosol paint or an indelible marker and without the effective consent of the owner the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.

(b) Except as provided by Subsection (d), an offense under this section is:

(1) a Class B misdemeanor if the amount of pecuniary loss is less than \$500;

(2) a Class A misdemeanor if the amount of pecuniary loss is \$500 or more but less than \$1,500;

(3) a state jail felony if the amount of pecuniary loss is \$1,500 or more but less than \$20,000;

(4) a felony of the third degree if the amount of pecuniary loss is \$20,000 or more but less than \$100,000;

(5) a felony of the second degree if the amount of pecuniary loss is \$100,000 or more but less than \$200,000; or

(6) a felony of the first degree if the amount of pecuniary loss is \$200,000 or more.

(c) When more than one item of tangible property, belonging to one or more owners, is marked in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the marking of the property may be aggregated in determining the grade of the offense.

(d) An offense under this section is a state jail felony if the marking is made on a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is less than \$20,000.

(e) In this section:

(1) "Aerosol paint" means an aerosolized paint product.

(2) "Indelible marker" means a device that makes a mark with a paint or ink product that is specifically formulated to be more difficult to erase, wash out, or remove than ordinary paint or ink products.

SECTION 2. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0171 to read as follows:

Art. 102.0171. COURT COSTS: GRAFFITI ERADICATION FUNDS.

(a) A defendant convicted of an offense under Section 28.08, Penal Code, in a county court, county court at law, or district court shall pay a \$5 graffiti eradication fee as a cost of court.

(b) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county graffiti eradication fund. A fund designated by this subsection may be used only to:

(1) repair damage caused by the commission of offenses under Section 28.08, Penal Code;

(2) provide educational and intervention programs designed to prevent individuals from committing offenses under Section 28.08, Penal Code; and

(3) provide to the public rewards for identifying and aiding in the apprehension and prosecution of offenders who commit offenses under Section 28.08, Penal Code.

(d) The county graffiti eradication fund shall be administered by or under the direction of the commissioners court.



SECTION 3. Section 54.042, Family Code, is amended to read as follows:

Sec. 54.042. LICENSE SUSPENSION. (a) A juvenile court, in a disposition hearing under Section 54.04 [~~of this code~~], shall:

(1) order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.342(a), Transportation Code [24(a-1), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes)]; or

(2) notify the Department of Public Safety of the adjudication, if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.372(a), Transportation Code [24B(b), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes)].

(b) A juvenile court, in a disposition hearing under Section 54.04, may order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit to deny the issuance of a license or permit to the child, if the court finds that the child has engaged in conduct that violates Section 28.08, Penal Code.

(c) The order under Subsection (a)(1) [~~of this section~~] shall specify a period of suspension or denial that is until the child reaches the age of 19 or for a period of 365 days, whichever is longer.

(d) The order under Subsection (b) shall specify a period of suspension or denial that is:

(1) for a period not to exceed 365 days; or

(2) if the court finds the child has been previously adjudicated as having engaged in conduct violating Section 28.08, Penal Code, until the child reaches the age of 19 or for a period not to exceed 365 days, whichever is longer.

(e) [~~(c)~~] A child whose driver's license or permit has been suspended or denied pursuant to this section may, if the child is otherwise eligible for, and fulfils the requirements for issuance of, a provisional driver's license or permit under Chapter 521, Transportation Code [173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes)], apply for and receive an occupational license in accordance with the provisions of Subchapter L of that chapter [Section 23A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes)].

(f) [~~(d)~~] A juvenile court, in a disposition hearing under Section 54.04 [~~of this code~~], may order the Department of Public Safety to suspend a child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 months if the court finds that the child has engaged in conduct in need of supervision or delinquent conduct other than the conduct described by Subsection (a) [~~of this section~~].

(g) ~~(f)~~ A juvenile court that places a child on probation under Section 54.04 ~~[of this code]~~ may require as a reasonable condition of the probation that if the child violates the probation, the court may order the Department of Public Safety to suspend the child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 months. The court may make this order if a child that is on probation under this condition violates the probation. A suspension under this subsection is cumulative of any other suspension under this section.

SECTION 4. Subchapter B, Chapter 485, Health and Safety Code, is amended by adding Section 485.019 to read as follows:

Sec. 485.019. RESTRICTION OF ACCESS TO AEROSOL PAINT.

(a) A business establishment that holds a permit under Section 485.012 and that displays aerosol paint shall display the paint:

(1) in a place that is in the line of sight of a cashier or in the line of sight from a workstation normally continuously occupied during business hours;

(2) in a manner that makes the paint accessible to a patron of the business establishment only with the assistance of an employee of the establishment; or

(3) in an area electronically protected, or viewed by surveillance equipment that is monitored, during business hours.

(b) This section does not apply to a business establishment that has in place a computerized checkout system at the point of sale for merchandise that alerts the cashier that a person purchasing aerosol paint must be over 18 years of age.

(c) A court may issue a warning to a business establishment or impose a civil penalty of \$50 on the business establishment for a first violation of this section. After receiving a warning or penalty for the first violation, the business establishment is liable to the state for a civil penalty of \$100 for each subsequent violation.

(d) For the third violation of this section in a calendar year, a court may issue an injunction prohibiting the business establishment from selling aerosol paint for a period of not more than two years. A business establishment that violates the injunction is liable to the state for a civil penalty of \$100, in addition to any other penalty authorized by law, for each day the violation continues.

(e) If a business establishment fails to pay a civil penalty under this section, the court may issue an injunction prohibiting the establishment from selling aerosol paint until the establishment pays the penalty, attorney's fees, and court costs.

(f) The district or county attorney for the county in which a violation of this section is alleged to have occurred, or the attorney general, if requested by the district or county attorney for that county, may file suit for the issuance of a warning, the collection of a penalty, or the issuance of an injunction.

(g) A penalty collected under this section shall be sent to the comptroller for deposit in the state treasury to the credit of the general revenue fund.

(h) This section applies only to a business establishment that is located in a county with a population of 75,000 or more.

SECTION 5. Subchapter N, Chapter 521, Transportation Code, is amended by adding Section 521.314 to read as follows:

Sec. 521.314. SUSPENSION FOR CERTAIN CRIMINAL MISCHIEF: LICENSE DENIAL. (a) A court may order the department to suspend a person's driver's license on conviction of an offense under Section 28.08, Penal Code.

(b) A court may order the department to deny an application for reinstatement or issuance of a driver's license to a person convicted of an offense under Section 28.08, Penal Code, who, on the date of the conviction, did not hold a driver's license.

(c) The period of suspension under this section is one year after the date of a final conviction. The period of license denial is one year after the date the person applies to the department for reinstatement or issuance of a driver's license.

(d) The department may not reinstate a driver's license suspended under Subsection (a) unless the person whose license was suspended applies to the department for reinstatement.

(e) A person whose license is suspended under Subsection (a) remains eligible to receive an occupational license under Subchapter L.

(f) For the purposes of this section, a person is convicted of an offense regardless of whether sentence is imposed or the person is placed on community supervision for the offense under Article 42.12, Code of Criminal Procedure.

SECTION 6. Section 53.03, Family Code, is amended by adding Subsection (g) to read as follows:

(g) If the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 28.08, Penal Code, deferred prosecution under this section may include:

(1) voluntary attendance in a class with instruction in self-responsibility and empathy for a victim of an offense conducted by a local juvenile probation department, if the class is available; and

(2) voluntary restoration of the property damaged by the child by removing or painting over any markings made by the child, if the owner of the property consents to the restoration.

SECTION 7. Chapter 54, Family Code, is amended by adding Section 54.046 to read as follows:

Sec. 54.046. CONDITIONS OF PROBATION FOR DAMAGING PROPERTY WITH GRAFFITI. (a) If a juvenile court places on probation under Section 54.04(d) a child adjudicated as having engaged in conduct in violation of Section 28.08, Penal Code, in addition to other conditions of probation, the court may, with consent of the owner of the property, order the child as a condition of probation to restore the property by removing or painting over any markings made by the child on the property.

(b) In addition to a condition imposed under Subsection (a), the court may require the child as a condition of probation to attend a class with instruction in self-responsibility and empathy for a victim of an offense conducted by a local juvenile probation department.

SECTION 8. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date and conduct violating a penal law of this state occurs on or after the effective date of this Act if every element of the violation occurs on or after that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 1997.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 29 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 29**. The Conference Committee Report was read and was filed with the Senate on Saturday, May 17, 1997.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by a viva voce vote.

#### **SENATE BILL 712 WITH HOUSE AMENDMENT**

Senator Harris called **SB 712** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Truan in Chair, laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **SB 712** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to certain duties regarding family law proceedings performed by clerks of the court and certain law enforcement officers and parties to the suit.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

SECTION 1. Subchapter E, Chapter 6, Family Code, as added by S.B. 334, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 6.4035 to read as follows:

Sec. 6.4035. WAIVER OF SERVICE. (a) A party to a suit for the dissolution of a marriage may waive the issuance or service of process after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) The waiver must contain the mailing address of the party who executed the waiver.

(c) The waiver must be sworn but may not be sworn before an attorney in the suit.

(d) The Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

SECTION 2. Subchapter H, Chapter 6, Family Code, as added by S.B. 334, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 6.710 as follows:

Sec. 6.710. COPY OF DECREE. The clerk of the court shall mail a copy of the final decree of dissolution of a marriage to the party who waived service of process under Section 6.4035 by mailing the copy of the decree to the party at the mailing address contained in the waiver or to the office of the party's attorney of record.

SECTION 3. Section 85.042, Family Code, as added by S.B. 797, Acts of the 75th Legislature, Regular Session, 1997, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The clerk of the court issuing an original or modified protective order under this subtitle shall send a copy of the order, along with the information provided by the applicant or the applicant's attorney that is required under Section 411.042(b)(5), Government Code, to the chief of police of the municipality in which the member of the family or household protected by the order resides, if the person resides in a municipality, or to the appropriate constable and the sheriff of the county in which the person resides, if the person does not reside in a municipality. The chief of police or constable and sheriff shall enter the information into the statewide law enforcement information system.

(c) The clerk of a court that vacates an original or modified protective order under this subtitle shall notify the chief of police or constable and sheriff who received a copy of the original or modified order that the order is vacated.

(d) The applicant or the applicant's attorney shall provide to the clerk of the court:

(1) the name and address of each law enforcement agency, child-care facility, and school to which the clerk is required to mail a copy of the order under this section; and

(2) any other information required under Section 411.042(b)(5), Government Code.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997.

(b) Section 3 of this Act takes effect only if the 75th Legislature, at its regular session, enacts S.B. 797 and that bill becomes law. If that legislation does not become law, Section 3 of this Act has no effect.

(c) The change in law made by this Act regarding waiver of service of process in a suit for dissolution of a marriage applies only to a suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(d) The change in law made by this Act regarding information that must be provided after issuance of a protective order applies only to a protective order rendered on or after the effective date of this Act. A protective order rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 712** by a viva voce vote.

#### **SENATE BILL 1534 WITH HOUSE AMENDMENTS**

Senator Barrientos called **SB 1534** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 1534** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to additional court filing fees to provide basic civil legal services to the indigent.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

SECTION 1. Chapter 51, Government Code, is amended by adding Subchapter J to read as follows:

#### **SUBCHAPTER J. ADDITIONAL FILING FEE FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS**

**Sec. 51.901. ADDITIONAL FILING FEE FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) In addition to other fees authorized or required by law, the clerk of each court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:**

**(1) supreme court and courts of appeals.....\$25;**  
**(2) district courts, for other than divorce and other family law matters.....\$10;**

- (3) district courts, divorce and other family law matters.....\$5;
- (4) statutory and constitutional county courts.....\$5;
- (5) justice of the peace courts.....\$2.

(b) Court fees under this subchapter shall be collected in the same manner as other fees, fines, or costs in the case.

(c) The clerk shall send the fees collected under this subchapter to the comptroller at least as frequently as quarterly. The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

(d) In this section:

(1) "Family law matters" has the meaning assigned "family law cases and proceedings" by Section 25.0002.

(2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.

Sec. 51.902. RULES. (a) The supreme court shall adopt:

(1) rules and procedures for the distribution of funds under this subchapter; and

(2) rules and procedures for imposing sanctions that define circumstances requiring the reduction or cancellation of funding.

(b) Funds may be distributed only to nonprofit organizations that provide basic civil legal services to persons meeting the income eligibility requirements established by the supreme court.

Sec. 51.903. BASIC CIVIL LEGAL SERVICES ACCOUNT. (a) The basic civil legal services account is an account in the judicial fund administered by the supreme court.

(b) Funds in the basic civil legal services account may be used only for the support of programs approved by the supreme court that provide basic civil legal services to the indigent. The comptroller may pay money from the account only on vouchers approved by the supreme court.

(c) Except as provided by this subsection, funds from the basic civil legal services account may not be used to directly or indirectly support a class action lawsuit, abortion-related litigation, or a lawsuit against a governmental entity, political party, candidate, or officeholder for an action taken in the individual's official capacity or for lobbying for or against a candidate or issue. Funds from the basic civil legal services account may not be used for the representation of an individual who is confined to a local, state, or federal jail or prison. Funds from the basic civil legal services account may not be used to provide legal services to an individual who is not legally in this country in matters of asylum unless necessary to protect the physical safety of the individual. Funds from the basic civil legal services account may be used to support a lawsuit brought by an individual against a governmental entity to obtain benefits that the individual or the individual's dependent or ward is eligible to receive from a governmental entity as expressly granted under a statute or regulation, including social security benefits, aid to families with dependent children, financial assistance under Chapter 31, Human Resources Code, food stamps, special education for the handicapped, Medicare,

Medicaid, subsidized or public housing, and other economic, shelter, or medical benefits provided by a government directly to an indigent individual but not including a claim for actual or punitive damages.

(d) Except as provided by this subsection, funds from the basic civil legal services account may not be used for a lawsuit or other legal matter that if undertaken on behalf of an indigent individual by an attorney in private practice might reasonably be expected to result in payment of a fee for legal services from an award to the individual client from public funds or from an opposing party. Funds from the basic civil legal services account may be used to support a lawsuit if the indigent individual seeking legal assistance made a reasonable effort to obtain legal services from an attorney in private practice for the particular legal matter, including contacting attorneys who practice law in the judicial district that is the residence of the indigent individual and who normally accept cases of a similar nature, and the indigent individual has been unable to obtain legal services.

(e) The supreme court shall file a report with the Legislative Budget Board at the end of each fiscal year showing disbursements from the account and the purpose for each disbursement. All funds expended are subject to audit by the supreme court, the comptroller, and the state auditor.

(f) The purpose of this subchapter is to increase the funds available for basic civil legal services to the indigent. Funds available from the basic civil legal services account may be supplemented by local or federal funds and private or public grants.

SECTION 2. This Act takes effect September 1, 1997, and applies only to fees for appeals, suits, counterclaims, cross-actions, interventions, interpleaders, or third-party actions filed on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### **Floor Amendment No. 1**

Amend CSSB 1534 as follows:

(1) On page 2, lines 16 and 17, strike "that define circumstances requiring" and substitute ", including".

(2) On page 3, line 9, strike "Funds" and substitute "Notwithstanding any provision of law to the contrary, funds".

(3) On page 3, line 17, strike "against" and substitute ", solely on behalf of the individual or the individual's dependent or ward to compel".

(4) On page 3, line 17, strike "obtain" and substitute "provide".

(5) On page 3, line 18, between "is" and "eligible" insert "expressly".

(6) On page 3, line 19, strike "from a governmental entity as expressly granted under a" and substitute ", by".

(7) On page 3, line 25, between "individual" and "but" insert a comma.

(8) On page 3, line 26, strike "including" and substitute "to support".

(9) On page 4, line 17, between "disbursement" and the period, insert "and the sanctions imposed, if any".



(10) At the end of SECTION 1 of the bill, page 4, between lines 18 and 19, add Subsection (g) to read as follows:

(g) A legal aid society or legal services program that is awarded attorney's fees in a case shall send the attorney's fees to the comptroller if any attorney representing any party involved in the case was paid in that case directly from funds from a grant made under this subchapter. The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

#### **Floor Amendment No. 2**

Amend CSSB 1534 as follows:

In SECTION 1 of the bill, strike the proposed Sections 51.901(c) and (d), Government Code (page 2, lines 1-12), and substitute as follows:

(c) The clerk shall send the fees collected under Subsection (a)(1) to the comptroller not later than the 10th day after the end of each quarter.

(d) The clerk shall remit the fees collected under Subsections (a)(2)-(5) at least as frequently as monthly to the county treasurer or the person who performs the duties of the county treasurer. The county treasurer or the person performing the duties of the county treasurer shall keep a record of the amount of money received under this subsection. The county treasurer or the person who performs the duties of the county treasurer shall remit the fees collected, minus an amount ordered retained by the county commissioners court as provided by Subsection (e), to the comptroller not later than the 10th day after the end of each quarter.

(e) The commissioners court by order may require the county treasurer or the person who performs the duties of the county treasurer to deposit in the county's general revenue account five percent of the fees collected under Subsections (a)(2)-(5) to reimburse the county for the expense of collecting and remitting the fees collected under Subsections (a)(2)-(5).

(f) The comptroller shall deposit the fees received under this section to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

(g) In this section:

(1) "Family law matters" has the meaning assigned "family law cases and proceedings" by Section 25.0002.

(2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.

#### **Floor Amendment No. 1 on Third Reading**

Amend CSSB 1534 on third reading on page 3, line 14, by striking "country in matters of asylum" and substituting "country,".

The amendments were read.

On motion of Senator Barrientos, the Senate concurred in the House amendments to SB 1534 by a viva voce vote.

**SENATE BILL 1899 WITH HOUSE AMENDMENT**

Senator Galloway called **SB 1899** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 1899** in SECTION 12 of the bill by striking Subsection (f) and appropriately redesignating subsequent subsections of that SECTION of the bill.

The amendment was read.

On motion of Senator Galloway, the Senate concurred in the House amendment to **SB 1899** by a viva voce vote.

**CONFERENCE COMMITTEE ON HOUSE BILL 1836**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1836** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1836** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Ratliff, Shapiro, Cain, and Gallegos.

**SENATE BILL 1310 WITH HOUSE AMENDMENT**

Senator Ellis called **SB 1310** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment No. 1**

Amend **SB 1310** as follows:

(1) On page 2, line 7 strike "with a population of more than 1.5 million".

(2) On page 2, between lines 7 and 8 insert a new subsection (7) to read as follows:

"(7) Nothing in this Chapter shall be construed as prohibiting or limiting operations at an airport or overflights by an aircraft; nor shall such operations or overflights be construed as adversely affecting historic structures or property."

The amendment was read.

Senator Ellis moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on SB 1310 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ellis, Chair; Whitmire, Gallegos, Cain, and Lindsay.

#### SENATE BILL 1622 WITH HOUSE AMENDMENTS

Senator Duncan called SB 1622 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Amendment

Amend SB 1622 by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the creation of the Lubbock Reese Redevelopment Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2310 to read as follows:

#### CHAPTER 2310. LUBBOCK REESE REDEVELOPMENT AUTHORITY

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2310.001. DEFINITIONS. In this subchapter:

- (1) "Authority" means the Lubbock Reese Redevelopment Authority.
- (2) "Base property" means land described by Section 2310.026 and improvements and personal property on that land.
- (3) "Board" means the board of directors of the authority.
- (4) "City" means the City of Lubbock.
- (5) "County" means Lubbock County.

Sec. 2310.002. ESTABLISHMENT. The authority is established as an authority and political subdivision of this state, with boundaries coterminous with the boundaries of the real property described by Section 2310.026, on adoption of resolutions by both the city and the county authorizing the authority's establishment.

Sec. 2310.003. BOARD. (a) The board consists of nine members and is responsible for the management, operation, and control of the authority.

(b) The board is composed of:

- (1) two members appointed by the governing body of the city;
- (2) two members appointed by the governing body of the county;
- (3) one member appointed by the South Plains Association of Governments; and

(4) four at-large members appointed by the majority vote of the members appointed under Subdivisions (1), (2), and (3).

(c) A vacancy on the board is filled in the same manner as the original appointment. Each board member serves for a term of two years.

(d) The members of the board shall elect from its membership a president and vice president. The vice president shall preside in the absence of the president.

(e) A majority of the members of the board is a quorum for the transaction of business.

(f) The board shall adopt rules for its proceedings and may employ and compensate persons to carry out the powers and duties of the authority.

[Sections 2310.004-2310.020 reserved for expansion]

SUBCHAPTER B. PURPOSE AND NATURE  
OF AUTHORITY; POWERS AND DUTIES

Sec. 2310.021. PURPOSE AND NATURE OF AUTHORITY. (a) The authority is created, on an affirmative vote by the governing body of the city and the commissioners court of the county, to accept title, on approval by and in coordination with the governor, from the United States to all or any portion of the real, personal, and mixed property situated within Reese Air Force Base, as described by Section 2310.026.

(b) The authority is a public political entity and corporate body and exercises public and essential governmental functions.

(c) The exercise of a power granted by this chapter is for a public purpose and is a matter of public necessity.

(d) The authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the authority are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

Sec. 2310.022. POWERS AND DUTIES OF AUTHORITY. (a) The authority has and may exercise, on approval by and in coordination with the governor, all the powers necessary or convenient to carry out or to effect a purpose of this chapter, including the power to:

(1) sue and be sued to the extent permitted by law, and plead and be impleaded, in its own name, and in such a suit the authority may not be required to give security for costs or a supersedeas or cost bond in an appeal of a judgment;

(2) adopt an official seal and alter it as considered advisable;

(3) adopt and enforce bylaws and rules for the conduct of its affairs not inconsistent with this chapter;

(4) acquire, hold, own, and dispose of its revenues, income, receipts, funds, and money from every source;

(5) select its depository or depositories;

(6) set the fiscal year for the authority;

(7) establish a complete system of accounts for the authority;

(8) invest funds in accordance with Chapter 2256;

(9) acquire, use, own, rent, lease, accept, hold, or dispose of any real, personal, or mixed property, licenses, patents, rights, and other interest in that

property, by purchase, exchange, gift, assignment, condemnation, sale, lease, or any other means, including rights-of-way or easements, and hold, manage, operate, or improve that property, to perform the duties and exercise any of the powers under this chapter;

(10) sell, assign, lease, encumber, mortgage, or otherwise dispose of any real, personal, or mixed property comprising the base property, or any interest in that property, release or relinquish any right, title, claim, lien, interest, easement, or demand, however acquired, and conduct any of those transactions by public or private sale, notwithstanding any other law;

(11) lease or rent any land or buildings, structures, or facilities located on the base property to any person to effect the purposes of this chapter;

(12) request and accept any appropriations, grants, allocations, subsidies, guaranties, aid, contributions, services, labor, materials, gifts, donations, or money from the federal government, this state, any city, any public agency, any political subdivision, or any other sources;

(13) operate and maintain an office;

(14) appoint and determine the duties, tenure, qualifications, compensation, and removal of officers, employees, agents, professional advisors, and counselors, including financial consultants, accountants, attorneys, architects, engineers, appraisers, and financing experts, as are considered necessary or advisable by the board;

(15) borrow money as necessary to acquire, improve, or operate facilities on the base property, not to exceed an amount determined by the governing body of the city;

(16) fix, revise from time to time, charge, and collect rents, rates, fees, and charges for its facilities and services;

(17) exercise powers granted to a municipality under Chapter 380, Local Government Code, for expansion of economic development and commercial activity; and

(18) adopt an annual operating budget for all major expenditures before the beginning of the fiscal year.

Sec. 2310.023. EXEMPT FROM TAXATION. The property, revenues, and income of the authority are exempt from all taxes levied by this state or a political subdivision of this state.

Sec. 2310.024. DISSOLUTION. The authority shall be dissolved when all the functions of the authority are performed and completed, and on approval of the city and county after all debts or obligations have been duly satisfied or retired with its assets. Any remaining assets of the authority shall be conveyed or transferred to the city and the county in accordance with the initial proportion of funds contributed by each. It is the intention of the legislature that the authority be dissolved after conveyance and sale of all of the base property.

Sec. 2310.025. SUCCESSOR. The authority is the successor in interest to the Lubbock Reese Redevelopment Authority Corporation, a nonprofit corporation organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), and succeeds to all rights and liabilities of the corporation.

Sec. 2310.026. DESCRIPTION OF TRACTS. (1) FIRST TRACT. All of Section Four (4) and the East Half (E 1/2) of Section Twenty-six (26) except that part of said Sections lying south of the north right-of-way line of State Highway No. 290 as same now exists; and the South Half (S 1/2) of Section Twenty-five (25), all in Block D-6; and the Southeast Quarter (SE 1/4) of Section Forty-eight (48) Block P, and containing 1387.66 acres more or less, and all easements appurtenant thereto, together with any improvements and personal property related therein;

(2) SECOND TRACT. A strip of land adjacent to and extending fifty (50) feet in width on each side of the following described line: Commencing at the northeast corner of Section Five (5), Block D-6; thence west along the north line of said Section Five (5), a distance of two-hundred (200) feet; thence south at right angles to said north line a distance of fifty (50) feet to the point of beginning; thence continuing south at right angles to said north line a distance of one-hundred sixty (160) feet, more or less, to a point of curve; thence southwesterly on a curve to the right with a radius of nine-hundred forty-two and twenty-nine hundredths (942.29) feet, a distance of one-thousand three-hundred ninety-six (1396) feet, more or less, to a point of intersection with a line parallel with and seventy-five (75) feet northeasterly from, measured at right angles to, the centerline of the main track of the South Plains and Santa Fe Railway Company, containing 3.57 acres, more or less, and all easements appurtenant thereto, together with any improvements and personal property related therein;

(3) THIRD TRACT (Radio Transmitter Site). A parcel of land described as beginning at the northwest corner of the southwest quarter (SW 1/4) of Section Two (2), Block D-6; thence east six-hundred sixty (660) feet, thence south six-hundred sixty (660) feet, thence west six-hundred sixty (660) feet, thence north six-hundred sixty (660) feet to the place of beginning, containing ten (10) acres, more or less, and all easements appurtenant thereto, together with any improvements and personal property related therein;

(4) FOURTH TRACT (Radio Range Site). A certain parcel of land described as beginning at the southwest corner of the east half (E 1/2) of Section Thirty-eight (38), Block JS, thence north five-hundred twenty-two (522) feet, thence east five-hundred (500) feet, thence south five-hundred twenty-two (522) feet, thence west five-hundred (500) feet to the point of beginning containing six (6) acres, more or less, all easements appurtenant thereto, together with any improvements and personal property related therein;

(5) FIFTH TRACT (Terry County Auxiliary Air Field). A parcel of land situated in Section 27, Block E, E.L. & R.R. Co. Survey, County of Terry, State of Texas, being more particularly described as follows: beginning at a 1/2" iron rod in the south line of Section 27 that bears west, a distance of 1820 feet from the section corner common to Sections 27 and 30, Block E for the southeast corner of this tract; Thence north 88 35' west, along the south line of said Section 27, a distance of 1870 feet to a 1/2" iron rod for the southwest corner of this tract; Thence north 02 23' east, a distance of 5195.4 feet to a 1/2" iron rod set under a fence for the northwest corner of

this tract; Thence south 88 33' east, along an east-west fence line, a distance of 100 feet to a point; Thence south 2 23' west, a distance of 200 feet to a 1/2" iron pipe for an inside corner of this tract; Thence south 88 33' east, a distance of 1770 feet to a 1/2" iron pipe for the northeast corner of this tract which bears south, a distance of 200 feet from an east-west fence; Thence south 02 23' west, a distance of 4993.2 feet to the point of beginning, containing an area of 214.86 acres, more or less, and all easements appurtenant thereto, together with any improvements and personal property related therein.

(6) SIXTH TRACT (Terry County Auxiliary Air Field). A parcel of land situated in Section 30, Block E, E.L. & R.R. R.R. Co. Survey, County of Terry, State of Texas, being more particularly described as: Beginning at a 1/2" iron rod in a line common to the north line of Section 30 and the south line of Section 27 which bears west, a distance of 1820 feet from the section corner common to Sections 27 and 30, Block E for the northeast corner of this tract; Thence south 02 23' west, a distance of 5208.1 feet to a point for the southeast corner of this tract which bears west, a distance of 1835.5 feet from the southeast corner of Section 30; Thence north 88 55' west, along an east-west fence on the south line of Section 30, a distance of 1855 feet to a point for the southwest corner of this tract; Thence north 43 16' west, a distance of 21.5 feet to a 1/2" iron rod, set for a corner of this tract, which bears north, a distance of 15 feet from an east-west fence; Thence north 02 23' east, a distance of 5203.4 feet to a 1/2" iron rod for the northwest corner of this tract which bears east, a distance of 1590 feet from the northwest corner of Section 30; Thence south 88 35' east, along the north line of Section 30, a distance of 1870 feet to the point of beginning, containing an area of 223.80 acres, more or less, and all easements appurtenant thereto, together with any improvements and personal property related therein.

(7) SEVENTH TRACT (Terry County Auxiliary Air Field). A parcel of land situated in Section 33, Block E, E.L. & R.R. R.R. Co. Survey, County of Terry, State of Texas, being more particularly described as follows: Beginning at a point under a fence along the north line of Section 33 that bears west, a distance of 1835.5 feet from a 2" iron pipe marking the northeast corner of Section 33; Thence south 02 23' west, a distance of 400 feet to a 1/2" reinforcing rod for the southeast corner of this tract; Thence north 88 55' west, along a line parallel to and 400 feet south of an east-west fence along the north line of Section 33, a distance of 1455 feet to a 1/2" iron rod for the southwest corner of this tract; Thence north 43 16' west, a distance of 558.7 feet to a point for the northwest corner of this tract; Thence south 88 55' east, with an east-west fence along the north line of Section 33, a distance of 1855 feet to the northeast corner of this tract and the point of beginning, containing an area of 15.20 acres, more or less, and all easements appurtenant thereto, together with any improvements and personal property related therein.

(8) EIGHTH TRACT (Terry County Auxiliary Air Field). A parcel of land situated in Section 33, Block E, E.L. & R.R. Railroad Co., Survey, County of Terry, State of Texas, being more particularly described as follows: Beginning at a point that bears west, a distance of 1835.5 feet and

south 02 23' west, a distance of 400 feet from the northeast corner of Section 33, Block E, E.L. & R.R. Railroad Co., Survey; thence south 02 23' west, a distance of 1500 feet; thence north 88 55' west, parallel to the north line of Section 33, a distance of 1870 feet; thence north 02 23' east, a distance of 1890.55 feet; thence south 88 55' east, a distance of 15.34 feet; thence south 43 16' east, a distance of 558.70 feet; thence south 88 55' east, a distance of 1455.14 feet to the point of beginning, containing 66.34 acres, more or less, and all easements appurtenant thereto, together with any improvements and personal property related therein.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### Floor Amendment No. 1

Amend CSSB 1622 by adding a new Section 2 to read as follows and renumber subsequent section as follows:

SECTION 2. Section 841.001, Government Code, is amended as follows:

(14) "Subdivision" means a county, a political unit that consists of all the geographical area of one county or of all or part of more than one county, a political unit of a county that has taxing authority, an authority created by the state of Texas to conduct redevelopment activities upon or related to closed military installations of the United States a crime control and prevention district, the Texas Association of Counties, the Texas County and District Retirement System, or a city and county that jointly operate a city-county hospital under Subchapter B, Chapter 265, Health and Safety Code, but does not include an incorporated city or town, a school district, or a junior college district.

The amendments were read.

Senator Duncan moved to concur in the House amendments to SB 1622.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### CONFERENCE COMMITTEE ON HOUSE BILL 1410

Senator Ellis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on HB 1410 and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on HB 1410 before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ellis, Chair; Shapiro, Ratliff, Lucio, and Sibley.



**CONFERENCE COMMITTEE ON HOUSE BILL 2542**

Senator Brown called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2542** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2542** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Armbrister, Lucio, Haywood, and Truan.

**SENATE BILL 932 WITH HOUSE AMENDMENTS**

Senator Sibley called **SB 932** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 932** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to abolishing the Texas Department of Commerce and the Texas Agricultural Finance Authority and transferring the powers and duties of the agencies to the newly created Texas Economic Development Agency to administer state agency loan and loan guarantee programs and to engage in capital formation initiatives to further the state's economic and agricultural development goals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

**ARTICLE 1. FINDINGS; PURPOSE;  
AGENCY GOALS; DEFINITIONS**

**SECTION 1.01. LEGISLATIVE FINDINGS.** The legislature finds that:

(1) the economic future of Texas and its citizens depends on the ability of businesses to secure low-cost capital that promotes the high-quality jobs that improve the living standards of all Texans;

(2) the voters of Texas and the legislature have created many programs within several state agencies that offer hundreds of millions of dollars to assist businesses and individuals to create jobs, sustain economic viability, own land, and promote other activities deemed critical to Texas;

(3) having loan and grant programs spread through many different agencies makes it very difficult for businesses and individuals to access programs designed to assist them;

(4) these loan and grant programs represent a substantial financial liability to the state's general revenue fund;

(5) consolidating the current fragmented system will improve the state's ability to control its liabilities and business activities;

(6) economic and administrative efficiencies can be gained by consolidating some of the loan and grant programs into one agency;

(7) consumer access to the state's loan and grant programs can be improved by consolidating some of the loan and grant programs into one agency with one marketing effort offering "one-stop shopping"; and

(8) the quality and efficiency of the programs can be improved by consolidation.

**SECTION 1.02. PURPOSE; AGENCY GOALS.** (a) The Texas Economic Development Agency created as provided by Article 4 of this Act is a state agency created to operate a consolidated economic development and lending agency, in particular through the consolidation of loan, grant, and market programs aimed at assisting business, helping governments assist business, and servicing the lending needs of groups of individuals targeted by the legislature essential to the well-being of Texas.

(b) The development agency with programs established by the voters and the legislature shall meet the needs of:

(1) business for low-cost capital to develop and promote new products and to expand markets;

(2) expanding, relocating, or developing businesses for information on Texas' economic sectors, industries, markets, and communities;

(3) communities to offer incentives, including infrastructure improvements and tax relief, to attract new businesses or expand or retain existing businesses;

(4) communities by facilitating and complementing the development of economic incentive packages;

(5) the people of this state for a vibrant economy capable of creating high-skill, high-wage jobs that pay a living wage;

(6) the taxpayers of this state to ensure that tax and bond revenues for economic development are spent and managed effectively and efficiently; and

(7) the tourism industry in this state.

**SECTION 1.03. DEFINITIONS.** In this Act:

(1) "Board" means the board of the development agency.

(2) "Development agency" means the Texas Economic Development Agency.

## **ARTICLE 2. ABOLITION OF**

### **TEXAS DEPARTMENT OF COMMERCE**

**SECTION 2.01. ABOLITION OF TEXAS DEPARTMENT OF COMMERCE.** Section 481.002, Government Code, is repealed and the Texas Department of Commerce is abolished.

**SECTION 2.02. TRANSFER OF PROPERTY.** All money, records, property, accounts, and equipment in the custody of the Texas Department of Commerce shall be transferred to the custody of the development agency on January 15, 1998.

**SECTION 2.03. TRANSFERS.** On January 15, 1998, all powers, duties, functions, programs, funds, and activities of the Texas Department of Commerce are transferred to the development agency.

**SECTION 2.04. REFERENCES TO DEPARTMENT.** A reference in law to the Texas Department of Commerce is considered to be a reference to the development agency.

**SECTION 2.05. CONFLICT OF LAWS.** If a provision of Subchapter A, Chapter 481, Government Code, conflicts with a provision of Article 4 of this Act, Article 4 of this Act controls.

**SECTION 2.06. EFFECTIVE DATE.** This article takes effect January 15, 1998.

### ARTICLE 3. ABOLITION OF

#### TEXAS AGRICULTURAL FINANCE AUTHORITY

**SECTION 3.01. ABOLITION OF TEXAS AGRICULTURAL FINANCE AUTHORITY.** Section 58.011(a), Agriculture Code, is repealed and the Texas Agricultural Finance Authority is abolished.

**SECTION 3.02. TRANSFER OF PROPERTY.** All money, records, property, accounts, and equipment in the custody of the Texas Agricultural Finance Authority shall be transferred to the custody of the development agency on May 1, 1998.

**SECTION 3.03. TRANSFERS.** On May 1, 1998, all powers, duties, functions, programs, and activities of the Texas Agricultural Finance Authority are transferred to the development agency.

**SECTION 3.04. SUCCESSOR AGENCY.** The development agency is the successor agency for purposes of statutory and constitutional references to the Texas Agricultural Finance Authority. The development agency has the powers and duties related to the administration of the farm and ranch finance program fund formerly assigned by the constitution and law to the Texas Agricultural Finance Authority.

**SECTION 3.05. CONFLICT OF LAWS.** If a provision of Subchapter B, Chapter 58, Agriculture Code, conflicts with a provision of Article 4 of this Act, Article 4 of this Act controls.

**SECTION 3.06. EFFECTIVE DATE.** This article takes effect May 1, 1998.

### ARTICLE 4. TEXAS ECONOMIC DEVELOPMENT AGENCY

**SECTION 4.01. TEXAS ECONOMIC DEVELOPMENT AGENCY.** The Texas Economic Development Agency is an agency of the state.

**SECTION 4.02. BOARD MEMBERSHIP.** (a) The board is composed of nine members as provided by this section.

(b) The governor shall appoint the members of the board. Four of the appointments shall be made as follows:

- (1) one person who is an agricultural producer;
- (2) one person who is an economic development professional who represents an economic development organization;
- (3) one person who represents the tourism industry; and
- (4) one person who represents a small, locally owned community bank.

(c) A member of the board serves for a term of two years expiring on February 1 of each odd-numbered year.

**SECTION 4.03. PRESIDING OFFICER; MEETINGS:** (a) The governor shall select a presiding officer from the board members.

(b) The board shall meet at least monthly and at the call of the presiding officer or of a majority of the members, as provided by board rule.

**SECTION 4.04. COMPENSATION; EXPENSES.** A board member is not entitled to receive compensation but is entitled to reimbursement of the member's travel expenses as provided in the General Appropriations Act.

**SECTION 4.05. APPLICATION OF OPEN RECORDS AND OPEN MEETINGS LAW.** (a) The development agency is a governmental body subject to the open records law, Chapter 552, Government Code, except that the financial records of an applicant or borrower are not public information.

(b) The board is a governmental body subject to the open meetings law, Chapter 551, Government Code, except that the board is not required to conduct an open meeting to discuss the financial matters of an applicant or borrower.

**SECTION 4.06. EXCLUSIVE AUTHORITY.** (a) On full implementation of this Act, the development agency has the exclusive authority to act as the administrator of state agency loan and loan guarantee programs transferred by this Act, including approving and servicing loans. Subject to Subsection (b) of this section, the powers and duties relating to administering a program of an entity required by other law to administer a loan or loan guarantee program transferred by this Act are transferred to the development agency, and the entity shall transfer all records relating to the program to the development agency.

(b) Each entity from which a program is transferred by this Act to the development agency shall execute with the development agency a memorandum of understanding governing the transfer. The transfer shall be accomplished in accordance with the memorandum.

(c) The Texas Economic Development Agency shall serve as the administrator of all existing state agency loan and loan guarantee programs transferred by this Act and all future state agency loan and loan guarantee programs.

**SECTION 4.07. CHIEF OPERATING OFFICER; EMPLOYEES.** (a) The board shall employ a chief operating officer of the development agency. The board may delegate to the officer any of the board's powers and duties.

(b) The chief operating officer may employ persons necessary for the proper management of the development agency.

**SECTION 4.08. LENDING AUTHORITY.** (a) The board by rule shall establish a breakdown of lending authority within the development agency.

(b) The chief operating officer shall establish the loan authority of the development agency's employees within board rules.

**SECTION 4.09. SECONDARY MARKET PARTICIPATION.** The development agency may enter into participations to develop a securitization program to sell into secondary markets.

**SECTION 4.10. DEVELOPMENT AGENCY AUDIT.** The development agency shall provide for an annual audit of the financial condition of the agency by:

- (1) the state auditor; or
- (2) a private auditing firm.

**SECTION 4.11. PROGRAM MARKETING.** The development agency may adopt a policy to market the programs administered by the agency.

**SECTION 4.12. MEMORANDUM OF UNDERSTANDING.** The development agency and the Texas Public Finance Authority shall jointly execute a memorandum of understanding relating to the agency retaining earnings that exceed the costs of bond retirement and costs of the Texas Public Finance Authority.

**SECTION 4.13. SUBSIDIARY.** The development agency may form a subsidiary as determined necessary by the agency.

**SECTION 4.14. CASH MANAGEMENT.** The board shall adopt a written cash management policy and review it annually.

**SECTION 4.15. TECHNICAL SERVICES.** (a) An entity from which a program is transferred by this Act shall perform, on request of the development agency, technical services related to programs and projects transferred from the entity to the development agency by this Act.

(b) The development agency may contract with other entities to perform the technical services.

**SECTION 4.16. GIFTS AND GRANTS.** The development agency may accept gifts and grants from any private or public source.

**SECTION 4.17. EARNINGS.** The excess earnings from programs administered by the development agency after payment of administrative overhead and payment for debt retirement may be pooled and used for any program administered by the agency or used to create an economic emergency assistance fund.

**SECTION 4.18. ECONOMIC EMERGENCY ASSISTANCE FUND.** The board may create an economic emergency assistance fund and adopt rules regulating the fund and the use of money in the fund. The board may deposit any earnings from programs administered by the development agency into the economic emergency assistance fund.

**SECTION 4.19. CONTRACTS WITH PRIVATE ENTITIES.** The development agency may contract with a private entity to perform an activity related to a program transferred by this Act as long as the activity is not solely a sovereign function of the state.

**SECTION 4.20. EFFECTIVE DATE.** This article takes effect January 15, 1998.

#### **ARTICLE 5. LEGISLATIVE OVERSIGHT COMMITTEE**

**SECTION 5.01. LEGISLATIVE OVERSIGHT COMMITTEE; SUNSET DATE.** (a) The Legislative Oversight Committee is composed of six members as follows:

(1) three members must be members of the senate, appointed by the lieutenant governor; and

(2) three members must be members of the house of representatives, appointed by the speaker of the house of representatives.

(b) The lieutenant governor shall appoint the initial presiding officer for a term ending January 31, 1999, and the speaker of the house of representatives shall appoint the successor presiding officer for a term beginning February 1, 1999.

(c) The committee is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this article expires August 31, 1999.

SECTION 5.02. COMMITTEE POWERS AND DUTIES. (a) The committee shall:

- (1) meet quarterly with the board; and
- (2) receive information regarding rules adopted by the board or proposed for adoption by the board.

(b) The committee may request reports and other information from the board relating to the operation of the board.

(c) The committee shall review the specific recommendations for legislation proposed by the board.

SECTION 5.03. REPORT. (a) The committee shall file a report with the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(b) The report must include:

- (1) identification of any problems in the board's administration of programs with recommended solutions for commission and legislative action; and
- (2) other recommendations for legislative action.

SECTION 5.04. EFFECTIVE DATE. This article takes effect January 15, 1998.

#### ARTICLE 6. COMPTROLLER STUDY

SECTION 6.01. COMPTROLLER STUDY. (a) The comptroller shall conduct a study to review the programs transferred to the development agency by this Act. Based on the study, the comptroller shall develop and make recommendations to the governor, lieutenant governor, and speaker of the house of representatives concerning the integrated structure of the development agency.

(b) Each state entity affected by the transfer of program jurisdiction shall cooperate with the comptroller in formulating and implementing a transition plan, including the development of program transition plans and an interim operating budget and the temporary assignment of staff as necessary to ensure an orderly transition.

(c) The comptroller's report and recommendations for the structure of the development agency and the transition of the programs transferred shall be filed with the governor, lieutenant governor, and speaker of the house of representatives not later than January 15, 1998.

(d) After review of the comptroller's plan by the governor, lieutenant governor, and speaker of the house of representatives, the development agency shall, to the extent practicable, implement the program transition in a manner consistent with the comptroller's plan.

(e) Each state agency affected by the transfer of program jurisdiction shall cooperate with the comptroller and the development agency in formulating and implementing a transition plan.

SECTION 6.02. EFFECTIVE DATE; EXPIRATION. This article takes effect September 1, 1997, and expires August 31, 1999.

ARTICLE 7. TRANSFER OF CERTAIN PROPERTY,  
RECORDS, OBLIGATIONS, FUNDS, FUNCTIONS,

PROGRAMS, AND ACTIVITIES TO DEVELOPMENT AGENCY

SECTION 7.01. TRANSFERS. On May 1, 1998, or an earlier date provided by an interagency agreement with the affected entity, the following functions, programs, and activities are transferred to the development agency:

(1) from the Texas Department of Housing and Community Affairs, the community and economic development grants program;

(2) from the General Land Office, the recycled products market expansion program;

(3) from the Parks and Wildlife Department, the public information program to communicate the state's natural and cultural resource conservation message through various media, including television, radio, newspapers, and magazines; and

(4) from the Texas Department of Transportation, the travel information program, other than the operation of the department's Travel Information Centers, to support and promote tourism.

SECTION 7.02. AMENDMENT. Section 9B(a), Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) With respect to all bonds authorized to be issued by the Texas National Guard Armory Board, Texas National Research Laboratory Commission, Parks and Wildlife Department, and all institutions of higher education authorized to issue bonds under Chapter 55, Education Code, and with respect to all bonds authorized to be issued by entities to fund programs administered by the Texas Economic Development Agency, the authority has the exclusive authority to act on behalf of those entities in issuing bonds on their behalf. In connection with those issuances and with the issuance of refunding bonds on behalf of those entities, the authority is subject to all rights, duties, and conditions surrounding issuance previously applicable to the issuing entity under the statute authorizing the issuance. All references in an authorizing statute to the entity on whose behalf the bonds are being issued apply equally to the authority in its capacity as issuer on behalf of the entity.

SECTION 7.03. EFFECTIVE DATE. This article takes effect January 15, 1998.

ARTICLE 8. TRANSFER OF CERTAIN PROPERTY,  
RECORDS, OBLIGATIONS, FUNDS, FUNCTIONS,

PROGRAMS, AND ACTIVITIES TO DEVELOPMENT AGENCY

SECTION 8.01. TRANSFERS. On May 1, 1998, the following functions, programs, and activities are transferred to the development agency from the Texas Agricultural Finance Authority:

(1) TAFA loan guarantee program;

(2) linked deposit program;

(3) microenterprise support program;

(4) young farmers endowment program; and

(5) farm and ranch finance program.

ARTICLE 9. TEXAS DEPARTMENT OF BANKING REPORT

SECTION 9.01. UNDERWRITING STANDARDS. (a) The Texas Department of Banking shall examine loans in programs administered by the development agency to determine the credit quality and value of the loans.

(b) The Texas Department of Banking shall recommend appropriate loan underwriting standards consistent with the development agency's mission and programs.

(c) The Texas Department of Banking shall file a report of the department's recommendations with the governor, lieutenant governor, and speaker of the house of representatives not later than August 1, 1998.

SECTION 9.02. EFFECTIVE DATE; EXPIRATION. This article takes effect January 1, 1998, and expires January 1, 1999.

#### ARTICLE 10. AUDITOR EVALUATION

SECTION 10.01. AUDITOR EVALUATION. (a) The state auditor shall evaluate the management and fiscal control systems of the development agency and make any recommendation for improvement to the governor, the legislature, and the development agency.

(b) The state auditor shall report the results of the evaluation conducted under Subsection (a) of this section to the governor and the legislature not later than December 1, 1998.

SECTION 10.02. EFFECTIVE DATE. This article takes effect January 15, 1998.

#### ARTICLE 11. TRANSFER OF PERSONNEL

SECTION 11.01. TRANSFER OF PERSONNEL. A person employed by a program transferred to the development agency by this Act becomes an employee of the development agency on the date on which the transfer of the program to the development agency is completed.

#### ARTICLE 12. AMENDMENT AND REPEAL OF CERTAIN FUNCTIONS, POWERS, AND DUTIES OF THE TEXAS DEPARTMENT OF COMMERCE

SECTION 12.01. EFFECT OF CERTAIN AMENDMENTS. The amendment by this article of a statute referring to the Texas Department of Commerce or a division of the department does not affect the abolition of that department by this Act.

SECTION 12.02. Section 481.082, Government Code, is amended to read as follows:

Sec. 481.082. PURPOSE. (a) The legislature finds that:

(1) the health, safety, right to gainful employment, and general welfare of the people of this state require as a public purpose the promotion and development of new and expanded enterprises; and

(2) communities in this state are at a critical disadvantage in competing with communities in this state and other states for the location or expansion of enterprises because of available financial resources ~~[the availability in all other states of financing]~~ and ~~[other special]~~ incentives.

(b) The purpose of this subchapter is to promote economic development and employment in rural areas, which is a public purpose.

(c) In administering this subchapter, the office of rural affairs [department] shall ensure that assistance is provided to improve economic development conditions and opportunity for citizens in rural areas of this state ~~[give first preference to assistance to the food and fiber processing industries]~~.



SECTION 12.03. Section 481.083(7), Government Code, is amended to read as follows:

(7) "Rural area" means an area that is predominantly rural in character and meets the conditions of a rural area, as defined ~~[designated]~~ by the department ~~[as a rural area]~~.

SECTION 12.04. Section 481.0831, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The office shall be headed by a rural affairs director~~[-~~:

~~[(1) implement the programs established under this subchapter; and~~

~~[(2) address the special needs of rural communities and businesses and assist those communities and businesses].~~

(c) To be eligible to serve as the rural affairs director, a person must have demonstrated a strong commitment to and involvement in economic development activities in rural areas.

SECTION 12.05. Section 481.088, Government Code, is amended to read as follows:

Sec. 481.088. GENERAL DUTIES OF OFFICE OF RURAL AFFAIRS ~~[DIRECTIVE]~~. ~~[(a)]~~ The office of rural affairs ~~[executive director]~~ shall:

(1) serve as a principal point of contact for comments and suggestions concerning state government policies and activities that affect rural areas;

(2) provide advice to the governor and the legislature regarding administrative requirements and legislation that affect rural areas;

(3) develop proposals for changes in the policies and activities of state agencies that will better serve the purposes of this subchapter and communicate those proposals to the appropriate agencies;

(4) cooperate with other public and private entities that provide assistance to rural areas; and

(5) cooperate and provide assistance to public and private agencies, businesses, and other organizations by:

(A) disseminating information about the programs and services provided by the state that benefit rural areas; and

(B) informing the agencies, businesses, and organizations of how to participate in or make use of the programs and services that benefit rural areas. ~~[conduct a detailed, comprehensive analysis of the availability of federal, state, and local government and private sector rural economic development business outreach and data services in Texas. The analysis must specifically examine the availability of:~~

~~[(1) integrated computerized rural economic development data banks that provide comprehensive economic data for existing and prospective businesses in Texas; and~~

~~[(2) business information outreach service offices or centers that provide comprehensive technical assistance, research, consulting services, training, and other business services to small rural communities to help businesses prepare and implement economic development business plans and assist new business start-up projects in Texas.~~

~~[(b) In conducting the analysis required by this section, the executive director shall consult with the governor, economic development officials,~~

~~economic development experts in the private sector, and the academic community in Texas.~~

~~[(c) The cost of the analysis and establishment of the rural economic development data base required by this section may be paid from available funds in the fund in an amount not to exceed \$300,000.]~~

SECTION 12.06. Section 481.089, Government Code, is amended to read as follows:

Sec. 481.089. SPECIFIC DUTIES OF OFFICE OF RURAL AFFAIRS [CRITERIA]. To carry out the duties under Section 481.088, the office of rural affairs shall:

(1) develop a rural resource guide and provide the information to rural areas through print and electronic media;

(2) provide information to state agencies on the effects of proposed policies or actions that affect rural areas;

(3) cosponsor meetings, to the extent practical, in cooperation with public and private educational institutions to disseminate information beneficial to rural areas;

(4) identify potential opportunities for businesses in rural areas and assist these businesses to maximize those opportunities;

(5) conduct an analysis of the available federal, state, and local government and rural economic development business outreach and data services in rural areas of this state by examining the availability of:

(A) computerized economic development databases that provide data for existing and prospective businesses and communities in rural areas of this state; and

(B) business information outreach service offices or centers that provide comprehensive technical assistance, research, consulting services, training, and other services to businesses in rural areas; and

(6) perform any other functions necessary to carry out the purposes of this subchapter. [(a) In assessing the availability of rural economic development data services in Texas, the executive director shall determine the capability of the data banks to provide a socioeconomic profile of each trade area, region, or sector that includes an inventory of the area's resource base, the area's barriers to economic development, and an assessment of the area's competitive position in the industrial marketplace particularly in the area of production sharing.

~~[(b) The executive director shall determine the ability of a data bank to compile:~~

~~[(1) population data for each community and county in Texas;~~

~~[(2) data on all retail businesses by locality, county, and community, including information on sales, types of products and services, employees, organizational forms, and affiliations;~~

~~[(3) information on all components of the health care delivery system by community and county, including information on physicians, hospitals, laboratories, specialized health care providers, and institutions;~~

~~[(4) information on all aspects of the transportation system in Texas, including data on streets and highways, airline and other air access and airports, freight lines, railroad access, and limitations imposed through~~

~~regulation, restrictions on transportation of hazardous materials, bridges, landing facilities, and the current condition of existing transportation facilities;~~

~~[(5) a current inventory of all available industrial facilities for lease or sale, including information regarding age, type of construction, zoning, availability, cost, ability to renovate, utilities, incentives, and similar data;~~

~~[(6) information on all public and private utilities available by community, area, and county, including information on extension of public utilities into rural and nonmetropolitan areas, and the ability of systems to support economic growth;~~

~~[(7) information on police, fire, hazardous material safety, and rescue services, including information on crime rates;~~

~~[(8) information on all community, county, regional, and state agencies and organizations, and information on what these agencies and organizations can provide to existing and prospective businesses in Texas;~~

~~[(9) information on all primary and secondary education programs and programs offered by institutions of higher education by community, rural area, and county, including information on vocational educational resources and general demographic information on the student population;~~

~~[(10) information on manufacturing facilities, including information by community, county, and type of manufacturer;~~

~~[(11) information on financial institutions, including size, amounts of deposits, loan policies, names of officers, and other pertinent information to assist existing and prospective economic development in rural areas of Texas;~~

~~[(12) information weighing the relative strengths and weaknesses of communities, counties, and other locations within Texas regarding rural economic development opportunities;~~

~~[(13) information regarding technology transfer between federal, state, and local governments and private industry in Texas;~~

~~[(14) information regarding the flow of trade across the border of the United States of America and the United Mexican States and business opportunities for maquiladora operations and other production sharing enterprises in Texas derived from the border trade; and~~

~~[(15) information on the development of special economic models for regional economic forecasts for Texas.]~~

SECTION 12.07. Section 481.090, Government Code, is amended to read as follows:

Sec. 481.090. STAFF AND POWERS OF OFFICE OF RURAL AFFAIRS [BUSINESS SERVICE OUTREACH STUDY]. In administering this subchapter, the department may:

(1) employ and set the compensation of personnel to carry out the office of rural affairs' functions under this subchapter; and

(2) consult with:

(A) experts and authorities in the fields of rural development, economic development, and community development;

(B) individuals with regulatory, legal, economic, or financial expertise, including members of the academic community; and

~~(C) individuals who represent the public interest [assessing the availability of business information outreach service offices in Texas, the executive director shall determine the capability of federal, state, and local government and private sector programs in Texas, including programs that:~~

~~[(1) provide a comprehensive array of data gathering, consulting, and training business services to existing and prospective businesses and industries with interest in locating operations in Texas;~~

~~[(2) serve as a liaison among existing small business development centers, state agencies, vocational educational agencies, other community economic development organizations, and both existing and prospective new business interests;~~

~~[(3) conduct studies, including target industry studies, for determining the benefits and costs to be incurred by locating a business or industry in Texas;~~

~~[(4) develop special economic models for regional economic forecasts for Texas;~~

~~[(5) analyze, develop, and disseminate to the business community new technologies in community infrastructure development, including water conservation and purification systems, recycling and waste treatment systems, solar and geothermal energy sources, disposal technologies for industrial and medical hazardous materials and waste, and landfill operations;~~

~~[(6) share with the business community information on new product and material developments available from institutions of higher education and government research laboratories and agencies of the federal government;~~

~~[(7) facilitate industry and community production networks that include cottage industries in manufacturing, industrial machining, and injection molding and that include community industrial manufacturing cooperatives involving multiple businesses and communities; and~~

~~[(8) interface with the rural economic development data banks, the electronic data base of the department, and any other appropriate data bases and make the data available to existing and prospective businesses in Texas].~~

SECTION 12.08. Section 481.092, Government Code, is amended to read as follows:

Sec. 481.092. ASSISTANCE OF GOVERNMENT AGENCIES [REVIEW]. Each state agency must, on request, furnish the office of rural affairs with reports and other information necessary to carry out the functions of this subchapter. [The comptroller shall review the implementation of Sections 481.088-481.090 of this chapter and assist in carrying out the assessment of programs and activities authorized in those sections. The comptroller shall make periodic written reports to the appropriate committees of the legislature regarding the studies and analyses to be prepared by the executive director.]

SECTION 12.09. Section 481.093, Government Code, is amended to read as follows:

Sec. 481.093. FUNDING [GIFTS AND GRANTS]. The office of rural affairs [department] may accept gifts, grants, and donations from any source for the purposes of performing specific projects, studies, or procedures or to provide assistance to small businesses [this subchapter].

SECTION 12.10. Subchapter F, Chapter 481, Government Code, is amended by adding Section 481.094 to read as follows:

Sec. 481.094. REPORTS. Not later than September 1 of each even-numbered year, the department shall send to the governor and the legislature a report containing specific information regarding each of the functions performed by the office of rural affairs under this subchapter, including suggestions regarding issues critical to the rural areas of this state.

SECTION 12.11. The executive director of the Texas Department of Commerce shall employ a rural affairs director as required by Section 481.0831, Government Code, as amended by this article, not later than January 1, 1998.

SECTION 12.12. AMENDMENT. Section 481.102, Government Code, is amended to read as follows:

Sec. 481.102. OFFICE OF SMALL BUSINESS ASSISTANCE. The Office of Small Business Assistance is an office within the department headed by a small business director. The office may accept gifts, grants, and donations from sources other than the state for the purpose of performing specific projects, studies, or procedures or to provide assistance to small businesses.

SECTION 12.13. AMENDMENT. Section 481.103(a), Government Code, is amended to read as follows:

(a) The office shall:

(1) examine the role of small and historically underutilized businesses in the state's economy and the contribution of small and historically underutilized businesses in generating economic activity, expanding employment opportunities, promoting exports, stimulating innovation and entrepreneurship, and bringing new and untested products and services to the marketplace;

(2) serve as the principal focal point ~~[advocate]~~ in the state for ~~[on behalf of]~~ small and historically underutilized businesses by:

(A) providing to the legislature information on the effects of proposed policies or actions;

(B) assisting state agencies in determining the impact proposed rules have on small businesses as required by Section 2006.002; and

(C) assisting the agencies in reducing the adverse effect that rules have on small businesses, if appropriate ~~[and provide advice in the consideration of administrative requirements and legislation that affect small and historically underutilized businesses];~~

(3) evaluate the effectiveness of efforts of state agencies and other entities to assist small and historically underutilized businesses and make appropriate recommendations to the legislature and state agencies to assist the development and strengthening of small and historically underutilized businesses;

(4) identify ~~[specific instances in which]~~ regulations ~~that~~ inhibit small and historically underutilized business development and to the extent possible identify conflicting state policy goals;

(5) determine the availability of financial and other resources to small and historically underutilized businesses and recommend methods for:

(A) increasing the availability of equity capital and other forms of financial assistance to small and historically underutilized businesses;

(B) generating markets for the goods and services of small and historically underutilized businesses;

(C) providing more effective education, training, and management and technical assistance to small and historically underutilized businesses; and

(D) providing assistance to small and historically underutilized businesses in complying with federal, state, and local laws;

(6) ~~identify~~ [describe] the reasons for small and historically underutilized business successes and failures, ascertain the related factors that are particularly important in this state, and recommend actions for increasing the success rate of small and historically underutilized businesses;

(7) serve as a focal point for receiving comments ~~[complaints]~~ and suggestions concerning state government policies and activities that affect small and historically underutilized businesses;

(8) ~~[assist with the resolution of problems among state agencies and small and historically underutilized businesses];~~

~~[(9)]~~ develop and suggest ~~[advocate]~~ proposals for changes in state policies and activities that adversely affect small and historically underutilized businesses;

(9) ~~[(10)]~~ provide to ~~[legislative committees and]~~ state agencies information on the effects of proposed policies or actions that affect small and historically underutilized businesses;

(10) ~~[(11)]~~ enlist the assistance of public and private agencies, businesses, and other organizations in disseminating information about state programs and services that benefit small and historically underutilized businesses and information regarding means by which small and historically underutilized businesses can use those programs and services;

(11) ~~[(12)]~~ provide information and assistance relating to establishing, operating, or expanding small and historically underutilized businesses;

(12) ~~[(13)]~~ establish and operate a statewide toll-free telephone service providing small and historically underutilized businesses with ready access to the services offered by the office;

(13) ~~[(14)]~~ assist small and historically underutilized businesses by:

(A) identifying:

(i) sources of financial assistance for those businesses; and

(ii) financial barriers to those businesses;

(B) working with relevant organizations to identify ~~[establishing]~~ financing programs ~~[for those businesses]~~ that aid small businesses in overcoming financial barriers;

(C) matching those businesses with sources of financial assistance and credit enhancement; and

(D) assisting those businesses with the preparation of applications for government loans, loan guarantees, and credit enhancement programs ~~[from governmental or private sources];~~

(14) [(15)] sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to small and historically underutilized businesses;

(15) [(16)] assist small and historically underutilized businesses in their dealings with federal, state, and local governmental agencies and provide information regarding governmental requirements affecting small and historically underutilized businesses;

(16) [(17)] perform research, studies, and analyses of matters affecting the interests of small and historically underutilized businesses;

(17) [(18) ~~develop and implement programs to encourage governmental agencies, public sector business associations, and other organizations to provide useful services to small and historically underutilized businesses;~~

[(19)] use available resources within the state, such as small business development centers, educational institutions, and nonprofit associations, to coordinate the provision of management and technical assistance to small and historically underutilized businesses in a systematic manner;

(18) [(20)] publish newsletters, brochures, and other documents containing information useful to small and historically underutilized businesses;

(19) [(21)] identify successful small and historically underutilized business assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in this state;

(20) [(22)] establish an outreach program to make the existence of the office known to small and historically underutilized businesses and potential clients throughout the state;

(21) [(23)] adopt rules necessary to carry out this subchapter;

(22) [(24)] identify potential business opportunities for small and historically underutilized businesses in areas of this state that are economically distressed, including areas of high unemployment and areas with high levels of poverty, [the border region] and develop programs to maximize those opportunities;

(23) [(25)] identify potential business opportunities for small and historically underutilized businesses in rural areas of this state and develop programs to maximize those opportunities; [and]

(24) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the state that benefit small businesses and how small businesses can participate in or make use of those programs and services;

(25) defer to the small business stationary source assistance program as defined by Section 382.0365, Health and Safety Code, on advocacy and technical assistance related to environmental programs that regulate small businesses; and

(26) perform any other functions necessary to carry out the purposes of this subchapter.

SECTION 12.14. AMENDMENT. Subchapter G, Chapter 481, Government Code, is amended by adding Section 481.109 to read as follows:

Sec. 481.109. ASSISTANCE TO GOVERNMENTAL AGENCIES. Each department, agency, and instrumentality of state government is authorized and directed to furnish the office with reports and other information as necessary to carry out the functions of this subchapter.

SECTION 12.15. AMENDMENT. Section 2006.002, Government Code, is amended by adding Subsection (f) to read as follows:

(f) To reduce the adverse impact of rules on micro-businesses, a state agency may adopt provisions concerning micro-businesses similar to those outlined in Subsection (b) for small businesses.

SECTION 12.16. AMENDMENT. Section 481.155, Government Code, is amended to read as follows:

Sec. 481.155. GRANTS. (a) The executive director may award grants for projects that meet the requirements of this chapter. It is the intent of the legislature that, to the greatest extent practicable, money from the smart jobs fund shall be spent in all areas of the state. The executive director may award a grant or a combination of grants in any fiscal year to a single employer in excess of \$1 million or at a rate greater than 10 percent of the annual wages of the new or existing job being created or retained with the grant only if:

- (1) the employer locates or expands in an enterprise zone;
- (2) the employer locates or expands in an adversely affected defense-dependent community;
- (3) the employer locates or expands in an area having an unemployment rate 1-1/2 times or greater than the statewide average at the time of the application;
- (4) the employer locates or expands in a county with a population of less than 75,000;
- (5) at least 25 percent of the employees hired or retained by the employer are economically disadvantaged individuals as defined by Section 2303.402(c); or
- (6) the employer is a small business or a micro-business.

(b) The executive director shall attempt to ensure that at least 20 percent of the total dollar amount of grants awarded under the program are awarded to minority employers.

(c) ~~(b)~~ The program is job-driven. A grant may not be awarded unless each employer participating in the project certifies that:

- (1) a job or job opening exists or will exist at the end of the project for which the grant is sought; and
- (2) the job or job opening will be filled by a participant in the project.

(d) ~~(c)~~ A grant may not be awarded for a project under this section unless each employer participating in the project certifies that the starting wage for a new job created through the project will be equal to or greater than the prevailing wage for that occupation in the local labor market area ~~[greater than 66 2/3 percent of the state average weekly wage]~~ and that the wage for a job existing on the date that the project is scheduled to begin will be increased to the greater of:



(1) three [±0] percent for a small business or five percent for a business that is not a small business over the wage in effect on the day before the date on which the project is scheduled to begin for that job; or

(2) 100 percent of the prevailing wage for that occupation in the local labor market area [75 percent of the state average weekly wage].

(e) [(d)] An employer may apply for a grant under this chapter, and an employer who is a micro-business may request a modification of the requirements provided by Subsection (d) and Section 481.159(c), if:

(1) the employer is required to reduce or eliminate the employer's work force because of reductions in overall employment within an industry;

(2) [or] a substantial change in the skills required to continue the employer's business exists because of technological changes; or

(3) other reasonable factors, as determined by[- In awarding a grant under this subsection,] the executive director, exist [may modify the requirements of Subsection (c)].

(f) Grants awarded under this section [subsection] for which the executive director has modified the requirements of Subsection (d) [(c)] may not, in any fiscal year, exceed 10 percent of the total dollar amount of grants awarded under the program in that year.

(g) [(e)] Unless modified by the executive director under rules adopted by the policy board, a grant may not be awarded for a project unless each employer participating in the project certifies that it will continue to spend on nonmanagerial training an amount from private sources equal to the average amount spent by that employer on such training for the most recent two-year period.

(h) [(f)] A grant may not be awarded for a project if the project will impair existing contracts for services or collective bargaining agreements, except that a project inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and the employer or employers who are parties to the agreement.

(i) [(g)] During each state fiscal year the executive director shall attempt to ensure that at least 50 percent of the total dollar amount of grants awarded under this section is awarded to small businesses, as defined by Section 481.101.

(j) [(h)] In awarding a grant under this section, the executive director shall give priority to a project that is located in an enterprise zone as defined by Section 2303.003.

SECTION 12.17. AMENDMENT. Section 481.172, Government Code, is amended to read as follows:

Sec. 481.172. DUTIES. The department shall:

(1) promote and advertise within the United States and in foreign countries, by radio, television, newspaper, and other means considered appropriate, tourism in this state by non-Texans, including persons from foreign countries, and distribute promotional materials through appropriate distribution channels [agencies, including the United States Travel and Tourism Agency];

(2) encourage travel by Texans to this state's scenic, historical, natural, agricultural, educational, recreational, and other attractions;

(3) coordinate and stimulate orderly and accelerated development of tourist attractions throughout this state;

(4) conduct a public relations campaign to create a responsible and accurate national and international image of this state;

(5) cooperate fully with the Parks and Wildlife Department in all matters relating to promotion of tourism;

(6) cooperate with the Texas Department of Transportation [~~Commission~~] in the administration of the Texas Department of Transportation's [~~commission's~~] collateral program of highway map distribution and operation of travel information bureaus and other tourist-related functions of the Texas Department of Transportation [~~commission~~]; and

(7) encourage communities, organizations, and individuals [~~in this state~~] to cooperate with its program by their activities and use of their own funds and collaborate with those organizations and other governmental entities in the pursuit of the objectives of this subchapter.

SECTION 12.18. AMENDMENT. Section 481.221, Government Code, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) [(2)] "Executive director" means the executive director of the department or the executive director's designee.

(2) [(3)] "Fund" means the product development fund.

[(4)] "Office" means the ~~Office of Advanced Technology within the Texas Department of Commerce.~~

(3) [(5)] "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially. The term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a commercial application.

(4) [(6)] "Venture financing" means a revolving loan, loan guarantee, or equity investment from the Texas product development fund to a person for use in the development of new or improved products.

SECTION 12.19. REPEALER. Chapter 146, Education Code, is repealed.

SECTION 12.20. REPEALER. Section 481.061, Government Code, is repealed.

SECTION 12.21. REPEALER. Subchapters R, T, U, and V, Chapter 481, Government Code, are repealed.

SECTION 12.22. REPEALER. Chapter 483, Government Code, is repealed.

### ARTICLE 13. BOARD APPOINTMENT; EMERGENCY

SECTION 13.01. APPOINTMENT OF INITIAL TEXAS ECONOMIC DEVELOPMENT AGENCY BOARD MEMBERS. The governor shall appoint the initial members of the board of the development agency in a timely manner so that a quorum of the board has qualified for office not later

than January 15, 1998. The term of office of each of the initial board members expires February 1, 1999.

**SECTION 13.02. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

**Floor Amendment No. 1**

Amend **CSSB 932** by striking the proposed Article 5 (committee report, page 9, line 7 through page 10, line 16) in its entirety and renumbering subsequent Articles accordingly.

**Amendment No. 2**

Amend **CSSB 932** on page 12, line 9, after "Centers" and before "," by inserting "and the production and publication of Texas Highways magazine".

**Amendment No. 3**

Amend **CSSB 932** as follows:

(1) on page 11, line 22, after "TRANSFERS" and before "." insert ", CONTRACTS, AND AGREEMENTS";

(2) on page 11, line 22, after the "." and before "On" insert "(a)";

(3) on page 12, line 3, strike "the public information program to communicate the state's natural and cultural resource conservation message through various media, including television, radio, newspapers, and magazine";

(4) on page 12, between lines 10 and 11 insert "(b) On or before May 1, 1998, the development agency and the Parks and Wildlife Department shall enter into an agreement for up to 600 hours of audio-visual studio and technical support provided by the Parks and Wildlife Department without a fee. However, terms relating to equipment usage and time management of services, support, and facilities will be negotiated between the agencies to support the complementary missions of the development agency and the Parks and Wildlife Department.

**Floor Amendment No. 4**

Amend **CSSB 932** as follows:

Strike Article 3 [lines 11-27, page 4, and lines 1-2, page 5] and Article 8 [lines 5-15, page 13] in their entirety, and renumber all remaining Articles accordingly.

**Amendment No. 6**

Amend **CSSB 932** by adding the appropriately numbered section as follows and renumbering subsequent sections appropriately:

**SECTION \_.** Subtitle C, Title 4, Government Code, is amended by adding Chapter 436 to read as follows:

CHAPTER 436. ADVISORY COMMISSION ON  
THE ECONOMIC DEVELOPMENT IMPACT OF  
MILITARY FORCES IN TEXAS

SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 436.001. DEFINITION. In this chapter, "commission" means the Advisory Commission on Military Forces in Texas.

Sec. 436.002. COMPOSITION. The commission is composed of:

- (1) nine public members, appointed by the governor; and
- (2) the following ex officio members:

(A) the chair of the committee of the Texas House of Representatives that has primary jurisdiction of matters concerning state, federal, and international relations; and

(B) the chair of the committee of the Texas Senate that has primary jurisdiction of matters concerning veteran affairs and military installations.

Sec. 436.003. TERMS. (a) The nine public members of the commission serve staggered terms of three years with the terms of one-third of the members expiring February 1 of each year.

(b) A legislative member vacates the person's position on the commission if the person ceases to be the chair of the applicable legislative committee.

Sec. 436.004. PRESIDING OFFICER. The governor shall designate the presiding officer of the commission from among the members of the commission.

Sec. 436.005. COMPENSATION. (a) A public member of the commission is not entitled to compensation but is entitled to reimbursement, from commission funds, for the travel expenses incurred by the member while conducting the business of the commission, as provided by the General Appropriations Act.

(b) The entitlement of a legislative member to compensation or reimbursement for travel expenses is governed by the law applying to the member's service in that underlying position, and any payments to the member shall be made from the appropriate funds of the applicable house of the legislature.

Sec. 436.006. MEETINGS. The commission shall meet at least quarterly.

Sec. 436.007. APPLICABILITY OF OTHER LAW. Article 6252-33, Revised Statutes, does not apply to the commission.

[Sections 436.008-436.030 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 436.031. POWERS AND DUTIES. The commission shall serve as an advisory committee to the Texas Economic Development Agency on the effect of the military on the economy of this state and make recommendations regarding:

- (1) the development of a contingency plan to support and promote the military in connection with the possible reduction, closure, or conversion of federal military bases in this state;

(2) the development of policies and plans to support the long-term viability and prosperity of the military, active and civilian, in this state;

(3) the development of methods to improve private and public employment opportunities for former members of the military residing in this state; and

(4) the compilation of information for use in a quarterly economic impact statement prepared by the Texas Economic Development Commission detailing the effect of the military on the economy of this state.

**Floor Amendment No. 1 on Third Reading**

Amend **CSSB 932** on third reading, in SECTION 7.01 of the bill (House committee report page 11, lines 26 and 27), by striking Subdivision (1) and renumbering the subsequent subdivisions accordingly.

**Floor Amendment No. 2 on Third Reading**

Amend **CSSB 932**, on third reading, by adding the following new section, appropriately numbered, to read as follows, and renumbering subsequent sections of the bill accordingly:

SECTION \_\_. Subchapter B, Chapter 67, Education Code, is amended by adding Section 67.28 to read as follows:

Sec. 67.28. BUREAU FOR ECONOMIC DEVELOPMENT AND HISPANIC STUDIES. (a) The University of Texas at Austin shall establish within the Lyndon Baines Johnson School of Public Affairs a Bureau for Economic Development and Hispanic Studies.

(b) The bureau shall:

(1) develop proposals for maximizing trade between this state, the Republic of Mexico, and Latin America;

(2) undertake research to encourage the analysis of public economic policies affecting Hispanic citizens;

(3) conduct studies and develop policy proposals on economic issues of particular interest and importance to Hispanic citizens, including studies and policies relating to:

(A) educational issues; and

(B) employment opportunities, including means by which opportunities created by foreign trade agreements and federal funds may be used to prevent loss of jobs by Hispanic citizens;

(4) distribute the results of its studies and policy proposals to appropriate federal, state, and local governmental agencies and officials, community organizations, private leaders, and the public;

(5) identify and study economic issues important to Hispanics in this state;

(6) develop information and produce reports to increase public awareness of important economic policy issues;

(7) sponsor independent studies of public economic policy issues;

(8) provide objective analysis of current legislative proposals and programs related to economic development;

(9) publish reports and papers that focus on the effect of proposed economic development policies, plans, and programs on the Hispanic community;

(10) establish primary communications links and informational forums for state leaders, legislators, and other important interests through briefings, meetings, and conferences;

(11) create opportunities to educate the public and, especially, leaders and potential leaders about important economic issues; and

(12) provide advice and counsel to public economic policy and decision makers with particular focus on the Hispanic community.

(c) The university shall maintain the main office of the bureau at Weslaco.

(d) The Texas Economic Development Agency and state institutions of higher education shall assist the bureau in carrying out its duties.

(e) The bureau may accept gifts and grants from any source to be used to carry out the bureau's duties.

The amendments were read.

Senator Sibley moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 932** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Ellis, Shapiro, Bivins, and Cain.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1212**

Senator Sibley called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1212** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1212** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Patterson, Duncan, Shapleigh, and Ellis.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1550**

Senator Harris called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1550** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1550** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; West, Ellis, Shapleigh, and Cain.

#### **SENATE BILL 331 WITH HOUSE AMENDMENT**

Senator Armbrister called **SB 331** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### **Amendment No. 1**

Amend **SB 331** in SECTION 2 of the bill by striking Subsection (c) of proposed Section 2003.0421 (page 3, line 6-9, engrossed version) and substituting the following:

(c) This section applies to any contested case hearing conducted by the State Office of Administrative Hearings, except hearings conducted on behalf of the Texas Natural Resource Conservation Commission or the Public Utility Commission of Texas which are governed by Section 2003.047.

The amendment was read.

On motion of Senator Armbrister, the Senate concurred in the House amendment to **SB 331** by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1595 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 1595**, Relating to the regulation of motor vehicle dealers and manufacturers.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSHB 1595** by deleting the words "initiate a proceeding" on page 8, line 8-30, and inserting the following after the word "not" on page 8, line 8-29: "file a complaint".

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

#### **Floor Amendment No. 2**

Amend **CSHB 1595** by inserting a new section on page 24, between lines 42-43, appropriately numbered, to read as follows and renumbering subsequent sections accordingly:

SECTION \_\_. Article 7.02, Title 79, Revised Statutes (Article 5069-7.02, Vernon's Texas Civil Statutes), is amended by amending Article 7.02(9)(b) and adding Article 7.02(9)(c) to read as follows:

(b) Section (9)(a) of this Article does not apply to:

- (i) a lease;
- (ii) a retail installment transaction for a vehicle to be used primarily for purposes other than personal, family, or household use;
- (iii) a transaction for which the payment schedule is adjusted to the seasonal or irregular income or scheduled payments or obligations of the buyer; ~~or~~
- (iv) a transaction of a kind determined by the Commissioner as not requiring the protection of the buyer provided in Section (9)(a) of this Article; ~~or~~[-]

(v) a retail installment transaction for the sale of a new vehicle by a seller who is a franchised dealer licensed under the Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), in which the buyer is entitled, at the end of the term of the retail installment contract, to choose any one of the following:

(A) sell the vehicle back to the holder according to a written agreement entered into between the buyer and holder concurrently with or as a part of the transaction and under which the buyer will be released from liability or obligation for the final scheduled payment under the contract on compliance with the agreement;

(B) to pay the final scheduled payment under the contract; or

(C) if the buyer is not in default under the contract, to refinance the final scheduled payment with the holder for repayment in not less than 24 equal monthly installment payments or on other terms agreed to by the buyer and holder at the time of refinancing and at a rate of time price differential not to exceed the lesser of:

(1) a rate of time price differential equivalent to the maximum rate authorized under Article 7.03 of this Title; or

(2) an annual percentage rate of five percent per annum more than the annual percentage rate of the original contract.

(c) A retail installment contract under Section (9)(b)(v) shall contain a disclosure that the refinancing may also be for any other period of time and payment schedule to which the buyer and holder may mutually agree.

The amendment was read and was adopted by a viva voce vote.

**CSHB 1595** as amended was passed to third reading by a viva voce vote.

#### COMMITTEE SUBSTITUTE HOUSE BILL 1595 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1595** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**CSHB 1595** was read third time and was passed by the following vote: Yeas 31, Nays 0.



**HOUSE BILL 979 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 979**, Relating to the duration of certain agreements between a local government and this state or the United States in connection with an airport or air navigation facility.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 979 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 979** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 979** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 3585 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3585**, Relating to authorizing the General Services Commission to convey certain state-owned property to the City of Austin.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 3585 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3585** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 3585** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 2877 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2877**, Relating to the issuance of bonds for projects by the Texas Public Finance Authority.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2877 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2877** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 2877** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE CONCURRENT RESOLUTION 44  
ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**HCR 44**, Directing the Texas Department of Health, the Lyndon Baines Johnson School of Public Affairs, the Blackland Research Center and the School of Rural Public Health, to study the role of local governments in providing public health services.

The resolution was read second time.

Senator Moncrief offered the following committee amendment to the resolution:

**Committee Amendment No. 1**

Amend **HCR 44** as follows:

1) On page 1, line 19, between "Texas" and "and", insert "The University of Texas-Houston Health Science Center School of Public Health,".

2) On page 2, line 6, between "Affairs" and "the", insert "the dean of The University of Texas-Houston Health Science Center School of Public Health,".

The committee amendment was read and was adopted by a viva voce vote.

**HCR 44** as amended was adopted by a viva voce vote.

**HOUSE BILL 131 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 131**, Relating to political contributions made in connection with certain judicial offices.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 131 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 131** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 131** was read third time and was passed by a viva voce vote.

**GUESTS PRESENTED**

Senator Fraser was recognized and introduced to the Senate a group of sixth-grade students and their teachers from the Brownwood Intermediate School of Brownwood.

The Senate welcomed its guests.

**HOUSE BILL 3250 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3250**, Relating to dog and cat sterilization and the issuance of Animal Friendly license plates.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3250** by adding the following appropriately numbered section:

SECTION . Chapter 828, Health and Safety Code, is amended by adding Sections 828.016 and 828.017 to read as follows:

Sec. 828.016. Abstinence-Based Education. (a) Prior to making a grant under this Section, the Department of Health shall ensure that all dogs and kittys proposed for reproductive separation participate in an approved abstinence-based sexuality education program.

(b) Any abstinence-based sexuality education program under this Section must:

(1) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried dogs and kitties;

(2) devote more attention to abstinence from sexual activity than to any other behavior;

(3) emphasize that abstinence from sexual activity, including rolling over and playing dead, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, and the emotional trauma associated with canine or feline sexual activity; and

(4) direct dogs and kitties to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy and sexually transmitted diseases.

Sec. 828.017. Parental Notice. Prior to conducting any reproductive separation procedure under this Section, an eligible organization must give at least 48 hours, or 14 dog or kitty days, actual notice, in person or by telephone, of the organization's intent to perform the procedure to a parent of the dog or kitty. If a parent cannot be contacted or identified, the organization must obtain pawprints from three family members and receive affirmative woofs or meows to ensure that they are aware of the request of the dog or kitty in question.

MONCRIEF  
SHAPIRO  
SIBLEY

The amendment was read.

Senator Ratliff offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **HB 3250** by adding the following appropriately numbered Section:

SECTION \_\_. Chapter 828, Health and Safety Code, is amended by adding Section 828.018 to read as follows:

Sec. 828.018. Restriction on Dog and Kitty Family Planning Funds. No funds may be appropriated pursuant to this Section to any organization that performs dog and kitty family planning services without ensuring parental notification.

The amendment to Floor Amendment No. 1 was read.

On motion of Senator Ratliff and by unanimous consent, Floor Amendment No. 2 was withdrawn.

The question recurred on the adoption of Floor Amendment No. 1.

On motion of Senator Moncrief and by unanimous consent, Floor Amendment No. 1 was withdrawn.

**HB 3250** was passed to third reading by a viva voce vote.

**HOUSE BILL 3250 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3250** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 3250** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2254 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2254**, Relating to reapportionment of certain state representative districts.

The bill was read second time and was passed to third reading by viva voce vote.

**HOUSE BILL 2254 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional rule requiring bills to be read on three several days be suspended and that **HB 2254** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 2254** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 3366 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time in its second reading and passage to third reading:

**HB 3366**, Relating to the authority of the General Services Commission to sell or dispose of real property.

The bill was read second time and was passed to third reading by viva voce vote.

(President in Chair)

**HOUSE BILL 3366 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional rule requiring bills to be read on three several days be suspended and that **HB 3366** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 3366** was read third time and was passed by a viva voce vote.

(Senator Brown in Chair)

**HOUSE BILL 3367 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time in its second reading and passage to third reading:

**HB 3367**, Relating to state buildings and to the authority of the General Services Commission to obtain title to and retain control of certain property located outside of Austin.

The bill was read second time and was passed to third reading by viva voce vote.

**HOUSE BILL 3367 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional rule requiring bills to be read on three several days be suspended and that **HB 3367** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 3367** was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **HOUSE BILL 63 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 63**, Relating to student debit card programs operated by public institutions of higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 63 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 63** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

On motion of Senator Duncan and by unanimous consent, further consideration of **HB 63** was postponed.

Question—Shall **HB 63** be read third time?

(President in Chair)

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 2644 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2644**, Relating to systems and programs administered by the Teacher Retirement System of Texas.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSHB 2644** as follows:

1) On page 14, by striking line 14-1 and renumbering subdivisions (5)-(8) on lines 14-2 through 14-6.

2) On page 14-2, line 14-8, by inserting between "insurance" and "or" the following: ", be provided by a risk pool authorized under Chapter 172, Local Government Code."

3) On page 15, line 15-68, by adding after "1997." the following: "The amendment made by this act to Sec. 22.004, Education Code, applies beginning with the 1998-99 school year."

The amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 2644** by removing all of SECTION 2 from the bill (page 1, lines 18-27).

The amendment was read and was adopted by a viva voce vote.

**CSHB 2644** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2644 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2644** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**CSHB 2644** was read third time and was passed by a viva voce vote.

**HOUSE BILL 422 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 422**, Relating to the regulation by the Texas Transportation Commission of fences along a road or highway in the state highway system in certain municipalities; providing a criminal penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 422 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 422** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 422** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 966 ON SECOND READING**

The President laid before the Senate **HB 966** on its second reading and passage to the third reading. The bill was read second time, Floor Amendment No. 1 was offered, and further consideration was postponed Saturday, May 17, 1997.

**HB 966**, Relating to water safety; providing penalties.

Question—Shall Floor Amendment No. 1 to **HB 966** be adopted?

**Floor Amendment No. 1**

Amend **HB 966** by deleting SECTION 5 of the bill amending Section 31.092, Parks and Wildlife Code and renumbering subsequent sections.

Senator Wentworth moved to table Floor Amendment No. 1.

The motion to table was lost by the following vote: Yeas 9, Nays 20.

Yeas: Brown, Cain, Galloway, Harris, Madla, Patterson, Ratliff, Wentworth, Whitmire.

Nays: Armbrister, Barrientos, Bivins, Ellis, Fraser, Gallegos, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Shapiro, Shapleigh, Sibley, Truan, West, Zaffirini.

Absent: Carona, Duncan.

Question recurring on the adoption of Floor Amendment No. 1, the amendment was adopted by a viva voce vote.

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 966** (printing page 2, line 2-41), to read as follows: prescribed and approved by the department; provided that if the personal watercraft is a vessel the operator shall be accompanied by a person at least 18 years of age as provided for in Section 31.106(5)(A).

The amendment was read and was adopted by a viva voce vote.

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 966** Section 31.108(e) to read as follows:

The department shall collect the \$5 examination or course fee and forward the fee and any examination documentation to the department not later than the 30th day after the date the examination or course is administered; and.

The amendment was read and was adopted by a viva voce vote.

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **HB 966** to delete section 31.110(2) in its entirety and replace it with the following language:

(2) is 18 years of age or older.

The amendment was read and was adopted by a viva voce vote.

**HB 966** as amended was passed to third reading by a viva voce vote.



**HOUSE BILL 966 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 966** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 966** was read third time and was passed by a viva voce vote.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**HB 9, HB 385, HB 473, HB 571, HB 574, HB 732, HB 740, HB 808, HB 984, HB 1029, HB 1085, HB 1135, HB 1217, HB 1288, HB 1291, HB 1338, HB 1540, HB 1556, HB 1577, HB 1610, HB 1805, HB 1823, HB 1825, HB 2007, HB 2083, HB 2220, HB 2411, HB 2445, HB 2696, HB 2923, HB 3060, HB 3100, HB 3252, HB 3271, HB 3559, HB 3565, HCR 55, HCR 165, HCR 227, HCR 260, HCR 270, HCR 271, HJR 83**

**GUESTS PRESENTED**

Senator Ratliff was recognized and introduced to the Senate a delegation of citizens from Lamar County.

The Senate welcomed its guests.

**HOUSE BILL 1052 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1052**, Relating to standards for the storage of eggs.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1052 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1052** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 1052** was read third time and was passed by a viva voce vote.

**HOUSE BILL 63 ON THIRD READING**

The President laid before the Senate **HB 63** on its third reading. The Constitutional Three-day Rule was suspended and further consideration was postponed.

**HB 63**, Relating to student debit card programs operated by public institutions of higher education.

Question—Shall **HB 63** be read third time?

On motion of Senator Duncan and by unanimous consent, further consideration of **HB 63** was postponed to a time certain of 9:30 a.m. tomorrow.

Question—Shall **HB 63** be read third time?

#### **HOUSE BILL 1055 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1055**, Relating to denial of a driver's license to a juvenile for failure to appear in court or pay a fine in connection with a misdemeanor.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1055 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1055** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 1055** was read third time and was passed by a viva voce vote.

(Senator Madla in Chair)

#### **HOUSE BILL 1216 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1216**, Relating to the creation and operation of the Texas Emancipation Juneteenth Cultural and Historical Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1216 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1216** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 1216** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 1521 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1521**, Relating to notice by the comptroller concerning certain unclaimed property.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1521 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1521** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 1521** was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **MOTION TO PLACE HOUSE BILL 325 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration at this time:

**HB 325**, Relating to the required distance between certain businesses that sell alcoholic beverages and a day-care center or child-care facility.

On motion of Senator Shapleigh and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 3112 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 3112**, Relating to the authorization of payroll deductions by employees of institutions of higher education for parking fees or parking permits.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 3112 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3112** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**CSHB 3112** was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **HOUSE BILL 2353 ON SECOND READING**

On motion of Senator Luna and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2353**, Relating to rural rail transportation districts.

The bill was read second time and was passed to third reading by a viva voce vote.

#### HOUSE BILL 2353 ON THIRD READING

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2353** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 2353** was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

#### HOUSE BILL 1637 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1637**, Relating to increased penalties for fraudulent or other unlawful acts committed under the state Medicaid program that result in injury to a child.

The bill was read second time.

Senator Carona offered the following committee amendment to the bill:

#### Committee Amendment No. 1

Amend **HB 1637** as follows:

(1) In SECTION 1 of the bill, in amended Section 32.039(b)(3)(A), Human Resources Code (House Engrossment page 1, line 21), between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(2) In SECTION 1 of the bill, in amended Section 32.039(b)(3)(B), Human Resources Code (House Engrossment page 2, lines 1 and 2), strike "younger than 18 years of age" and substitute "described by Paragraph (A)".

(3) In SECTION 1 of the bill, in proposed Section 32.039(s), Human Resources Code (House Engrossment page 2, line 4), between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(4) In SECTION 1 of the bill, in proposed Section 32.039(s), Human Resources Code (House Engrossment page 2, line 10), immediately following the last sentence, insert "This subsection does not apply to a person who operates a nursing facility."

(5) In SECTION 2 of the bill (House Engrossment page 2, line 12), strike "32.043" and substitute "32.047".

(6) In SECTION 2 of the bill, in proposed Section 32.043, Human Resources Code (House Engrossment page 2, line 13), strike "32.043" and substitute "32.047".

(7) In SECTION 2 of the bill, in proposed Section 32.043(2), Human Resources Code (House Engrossment page 2, line 19), between "to" and "a",

insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(8) In SECTION 3 of the bill, in amended Section 36.004(a)(3)(A), Human Resources Code (House Engrossment page 3, line 9), between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(9) In SECTION 3 of the bill, in amended Section 36.004(a)(3)(B), Human Resources Code (House Engrossment page 3, line 12), strike "younger than 18 years of age" and substitute "described by Paragraph (A)".

(10) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(A), Human Resources Code (House Engrossment page 3, line 25), between "person" and "found", insert ", other than a person who operates a nursing facility,".

(11) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(A), Human Resources Code (House Engrossment page 3, lines 25-27), strike "for an unlawful act that resulted in injury to a person younger than 18 years of age".

(12) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(B), Human Resources Code (House Engrossment page 4, line 2), between "person" and "found", insert ", other than a person who operates a nursing facility,".

(13) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(B), Human Resources Code (House Engrossment page 4, lines 3 and 4), strike "for an unlawful act that resulted in injury to a person younger than 18 years of age".

(14) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(A), Human Resources Code (House Engrossment page 4, line 7), between "person" and "found", insert "who operates a nursing facility".

(15) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(B), Human Resources Code (House Engrossment page 4, lines 8 and 9), strike "for an unlawful act that does not result in injury to a person younger than 18 years of age".

(16) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(B), Human Resources Code (House Engrossment page 4, line 11), between "person" and "found", insert "who operates a nursing facility".

(17) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(B), Human Resources Code (House Engrossment page 4, lines 12 and 13), strike "for an unlawful act that does not result in injury to a person younger than 18 years of age".

(18) In SECTION 4 of the bill, in amended Section 36.009(b), Human Resources Code (House Engrossment page 4, lines 14 and 15), strike "that resulted in injury to a person younger than 18 years of age".

(19) In SECTION 4 of the bill, in amended Section 36.009(b), Human Resources Code (House Engrossment page 4, line 18), strike "part of the state" and substitute "part of the".

(20) In SECTION 4 of the bill, in amended Section 36.009(b), Human Resources Code (House Engrossment page 4, line 22), immediately following the last sentence, insert "This subsection does not apply to a person who operates a nursing facility."

(21) In SECTION 7 of the bill (House Engrossment page 5, line 15), between "1997" and the period, insert ", but only if S.B. No. 30, Acts of the 75th Legislature, Regular Session, 1997, does not become law".

The committee amendment was read.

Senator Carona offered the following amendment to Committee Amendment No. 1:

**Floor Amendment No. 1**

Amend Committee Amendment No. 1 to **HB 1637** as follows:

(1) Strike Item 15 and substitute the following:

"(15) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(A), Human Resources Code (House Engrossment page 4, lines 8 and 9—committee printing page 3, lines 47 and 48), strike "for an unlawful act that does not result in injury to a person younger than 18 years of age"."

The amendment to Committee Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Committee Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

**HB 1637** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1637 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1637** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 1637** was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

**HOUSE BILL 3581 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3581**, Relating to the termination of certain receiverships.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3581** in SECTION 1 of the bill, in added Section 64.0721, Civil Practice and Remedies Code (committee report, page 1 between lines 36 and 37), after Subsection (c), by adding the following subsection:

(d) Any non-cash assets of a railroad company that exist when its receivership is terminated under this section escheat to the state.

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 3581** as follows:

(1) In SECTION 1 of the bill, strike proposed Subdivision 64.0721(a)(2), (Senate committee report version, page 1, lines 1-18 through 1-22), and substitute a new Subdivision (2) to read as follows:

(2) disburse fifty percent of the assets of the railroad company remaining after the payment of the company's debts to one or more nonprofit charitable organizations chosen by the receiver for use in providing services within the county in which the receiver was appointed. All other assets of the railroad company shall be placed in a special account in the general revenue fund. Fifty percent of the money credited to the account may be used only by the Texas Higher Education Coordinating Board for the purpose of funding tuition grants as provided under Subchapter G, Chapter 56, Education Code. The other fifty percent of the money credited to the account may be used only by the Texas Education Agency to provide grants for adult literacy services. A grant may be made only to fund a program operated by a nonprofit community-based organization approved by the agency or by a Texas Education Agency adult education consortium for use by community-based organizations which are members of the consortium.

(2) In SECTION 1 of the bill, strike proposed Subsection 64.0721(c), (Senate committee report version, page 1, lines 1-31 through 1-36), and substitute a new Subsection (c) to read as follows:

(c) After the expiration of the period for filing claims provided by Subsection (b) and after the court resolves all claims filed with the court relating to the railroad company, the court shall disburse any remaining assets of the receivership as provided by Subdivision (a)(2).

ELLIS  
WENTWORTH

The amendment was read.

On motion of Senator Ellis and by unanimous consent, Floor Amendment No. 2 was withdrawn.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 3581** as follows:

(1) In SECTION 1 of the bill, strike proposed Subdivision 64.0721(a)(2), (Senate committee report version, page 1, lines 1-18 through 1-22), and substitute a new Subdivision (2) to read as follows:

(2) disburse fifty percent of the cash assets of the railroad company remaining after the payment of the company's debts to one or more nonprofit charitable organizations chosen by the receiver for use in providing services within the county in which the receiver was appointed. All other cash assets of the railroad company shall be placed in a special account in the general revenue fund. Fifty percent of the money credited to the account may be used

only by the Texas Higher Education Coordinating Board for the purpose of funding tuition grants as provided under Subchapter G, Chapter 56, Education Code. The other fifty percent of the money credited to the account may be used only by the Texas Education Agency to provide grants for adult literacy services. A grant may be made only to fund a program operated by a nonprofit community-based organization approved by the agency or by a Texas Education Agency adult education consortium for use by community-based organizations which are members of the consortium.

(2) In SECTION 1 of the bill, strike proposed Subsection 64.0721(c), (Senate Committee Report version, page 1, lines 1-31 through 1-36), and substitute a new Subsection (c) to read as follows:

ELLIS  
WENTWORTH

The amendment was read and failed of adoption by the following vote:  
Yeas 13, Nays 18.

Yeas: Barrientos, Cain, Ellis, Gallegos, Luna, Moncrief, Ratliff, Shapleigh, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Shapiro, Sibley.

**HB 3581** as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 3581 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3581** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, West, Whitmire, Zaffirini.

Nays: Ellis, Moncrief, Truan.

Absent: Wentworth.

**HB 3581** was read third time and was passed by the following vote:  
Yeas 27, Nays 3. (Same as previous roll call)

#### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
Tuesday, May 20, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:



THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 276**, Designating May 20, 1997, Think Child Safety Day at the Capitol.

**SB 361**, Relating to the continuation and functions of the Texas State Board of Acupuncture Examiners; providing penalties.  
(Amended)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 9** (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**SENATE RULE 7.21 SUSPENDED  
(Printing Rule)**

On motion of Senator Madla and by unanimous consent, Senate Rule 7.21 was suspended as it relates to the printing of the House amendments to **SB 361**.

**SENATE BILL 361 WITH HOUSE AMENDMENTS**

Senator Madla called **SB 361** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment No. 1**

Amend **SB 361** by deleting SECTION 1, and renumbering subsequent sections accordingly.

**Amendment No. 2**

Amend **SB 361** in Section 3 of the bill by striking the proposed Section 6.042, Subchapter F, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) (engrossed bill, page 6, line 12 thru page 7, line 14), and substituting:

Sec. 6.042. BOARD MEMBER TRAINING. (a) To be eligible to take office as a member of the acupuncture board, a person appointed to the acupuncture board must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the person regarding:

(1) the enabling legislation that created the acupuncture board and its policymaking body to which the person is appointed to serve;

(2) the programs operated by the acupuncture board;

(3) the role and functions of the acupuncture board;

(4) the rules of the acupuncture board with an emphasis on the rules that relate to disciplinary and investigatory authority;

- (5) the current budget for the acupuncture board;
  - (6) the results of the most recent formal audit of the acupuncture board;
  - (7) the requirements of the:
    - (A) open meetings law, Chapter 551, Government Code;
    - (B) open records law, Chapter 552, Government Code; and
    - (C) administrative procedure law, Chapter 2001, Government Code;
  - (8) the requirements of the conflict of interests laws and other laws relating to public officials; and
  - (9) any applicable ethics policies adopted by the medical board or the Texas Ethics Commission.
- (c) A person appointed to the acupuncture board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the acupuncture board.

**Floor Amendment No. 5**

Amend **SB 361** as follows:

On page 5, lines 15 and 16, insert a period after the word "year," and delete the text which reads "unless the absence is excused by majority vote of the acupuncture board."

The amendments were read.

Senator Madla moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 361** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Gallegos, Galloway, Patterson, and Nixon.

**HOUSE BILL 325 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 325**, Relating to the required distance between certain businesses that sell alcoholic beverages and a day-care center or child-care facility.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 325** by adding a new subsection (d) as follows:

"(d) This section does not apply to a foster group home, foster family

home, family home, agency group home, or agency home as those terms are defined by Section 42.002, Human Resources Code."

The amendment was read and was adopted by a viva voce vote.

**HB 325** as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 325 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 325** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 325** was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1640 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 1640**, Relating to assessment of adult education programs and program participants.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1640 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1640** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**CSHB 1640** was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 1958 ON SECOND READING**

On motion of Senator Luna and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1958**, Relating to the creation of three county courts at law in Bexar County.

The bill was read second time.

Senator Luna offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **SB 1958**, Section 2, page 1, subsection (b), line 34, by striking the words "cases and".

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **SB 1958** by striking SECTION 3 in its entirety and substituting the following:

SECTION 3. The County Courts at Law Nos. 10, 11, and 12 of Bexar County, Texas, are created and this Act takes effect September 1, 1997.

The amendment was read.

Senator Luna moved to table Floor Amendment No. 2.

The motion to table was lost by the following vote: Yeas 14, Nays 15.

Yeas: Armbrister, Barrientos, Cain, Ellis, Gallegos, Lucio, Luna, Madla, Moncrief, Shapleigh, Truan, West, Whitmire, Zaffirini.

Nays: Bivins, Brown, Carona, Duncan, Fraser, Galloway, Haywood, Lindsay, Nelson, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Absent: Harris, Nixon.

Question recurring on the adoption of Floor Amendment No. 2, the amendment was adopted by a viva voce vote.

**VOTE RECONSIDERED**

On motion of Senator Wentworth and by unanimous consent, the vote by which Floor Amendment No. 2 was adopted was reconsidered.

Question—Shall Floor Amendment No. 2 to **SB 1958** be adopted?

On motion of Senator Wentworth and by unanimous consent, Floor Amendment No. 2 was withdrawn.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **SB 1958** by striking SECTIONS 3 and 4 of the bill and substituting new SECTIONS 3 and 4 to read as follows:

SECTION 3. (a) The County Courts at Law Nos. 10, 11, and 12 of Bexar County, Texas, are created on September 1, 1997.

(b) Notwithstanding Section 25.0009, Government Code, the initial vacancies in the office of judge on creation of the County Courts at Law Nos. 10, 11, and 12 shall be filled by an election to be held concurrently with the election on the proposed constitutional amendment to be held August 9, 1997.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

**SB 1958** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 1958 ON THIRD READING**

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1958** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SB 1958** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1548 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 1548**, Relating to tuition and fees for certain students registered in a public junior college.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1548** as follows:

On page 1, lines 50 through 59, strike Subsection (c) and substitute the following:

(c) The governing board of a public junior college district may allow a person who resides outside the district to pay tuition and fees at a rate less than the rate applicable to other persons residing outside the district, but not less than the rate applicable to a student who resides in the district, if the person:

(1) resides within the service area of the district;

(2) does not reside in an independent school district that meets the criteria of the coordinating board for the establishment of a junior college district under Section 130.013; and

(3) demonstrates financial need in accordance with rules adopted by the Texas Higher Education Coordinating Board.

The amendment was read and was adopted by a viva voce vote.

**CSHB 1548** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1548 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1548** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**CSHB 1548** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1039 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1039**, Relating to court-ordered mental health services.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1039** as follows:

1) On page 2, line 10, strike "and safety" and substitute "or safety".

2) On page 2, line 14, add a new SECTION 3 to read as follows and renumber subsequent SECTIONS accordingly:

SECTION 3. Sec. 574.012, Health and Safety Code, is amended by adding a new subsection (d) to read as follows and renumbering subsequent subsections accordingly:

(d) If outpatient treatment is recommended, the entity will also file a statement as to whether the proposed mental health services are available through:

(1) the local mental health authority because:

(i) the proposed patient is a member of a priority population identified for those mental health services in the department's long range plan; and

(ii) that sufficient resources to provide the necessary services are available; and

(2) another mental health services provider and that sufficient resources to provide the necessary services are available.

3) On page 2, line 18, strike subsection (a) and substitute the following:

(a) The clerk of each court with jurisdiction to order commitment under this chapter shall provide the Office of Court Administration each month with a report of the number of applications for commitment orders for involuntary mental health services filed with the court and the disposition of those cases, including the number of commitment orders for inpatient and outpatient mental health services. The Office of Court Administration shall make the reported information available to the department annually.

4) On page 2, line 52, strike "and safety" and substitute "or safety".

5) On page 2, line 57, strike subsection (1) in its entirety and substitute the following:

(1) the judge finds that appropriate mental health services are available to the patient; and

6) On page 3, line 13, strike subsection (i) and substitute the following:

(i) any of the proposed patient's actions occurring within the two year period which immediately precedes the hearing; or

7) On page 4, line 22, strike "and safety" and substitute "or safety".

8) On page 4, line 33, strike subsection (1) in its entirety and substitute the following:

(1) the judge finds that appropriate mental health services are available to the patient; and

9) On page 4, line 58, strike subsection (i) and substitute the following:

(i) any of the proposed patient's actions occurring within the two year period which immediately precedes the hearing; or

The amendment was read and was adopted by a viva voce vote.

**HB 1039** as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1039 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1039** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**HB 1039** was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 2777 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2777**, Relating to the eligibility determination and service delivery of health and human service agencies, the Texas Workforce Commission and other agencies.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSHB 2777** as follows:

1) On page 1, line 23, delete "the Legislative Budget Board as to the expenditure of appropriated funds" and substitute the following:  
the Texas Integrated Enrollment Services Legislative Oversight Committee established under Sec. 531.051, Government Code.

2) On page 1, line 26, insert the following between "Governor," and "develop":  
and the Legislative Budget Board.

3) On page 1, line 46-47, insert the following between "achieve" and "savings":  
increased quality of and client access to services, and

4) On page 2, after line 6, insert a new SECTION 2 to read as follows and renumber subsequent SECTIONS accordingly:

SECTION 2. Chapter 531, Government Code, is amended by adding Subchapter C to read as follows:

#### **SUBCHAPTER C. LEGISLATIVE OVERSIGHT**

Sec. 531.051. DEFINITION. (a) In this subchapter, "committee" means the Texas Integrated Enrollment Services Legislative Oversight Committee.

(b) In this subchapter, "commission" means the Texas Health and Human Services Commission.

(c) The committee is abolished September 1, 2002.

Sec. 531.052. COMPOSITION OF COMMITTEE; PRESIDING OFFICER.

(a) The committee is composed of:

(1) three members of the senate appointed by the lieutenant governor; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(b) A member of the committee serves at the pleasure of the appointing official.

(c) The lieutenant governor and speaker of the house of representatives shall appoint the presiding officer of the committee on an alternating basis. The presiding officer shall serve a two-year term expiring February 1 of each odd-numbered year.

Sec. 531.053. COMMITTEE POWERS AND DUTIES. (a) The committee shall:

(1) meet at the call of the presiding officer;

(2) receive information about rules proposed or adopted by the commission; and

(3) review specific recommendations for legislation proposed by the commission.

(b) The committee shall advise the commission in the development of the plan and monitor the implementation and efficiency of the Texas Integrated Enrollment Services.

(c) The commission shall, at the committee's request, provide reports and other information relating to the operation of the integrated enrollment system.

(d) The committee may use staff of standing committees in the senate and house of representatives with appropriate jurisdiction, the Department of Information Resources, the State Auditor, Legislative Council and the Legislative Budget Board in carrying out its responsibilities.

Sec. 531.054. REPORT. (a) The committee shall report to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each year.

(b) The report must include:

(1) identification of significant problems in the Texas Integrated Enrollment Services, with recommendations for action by the commissioner;

(2) the status of the effectiveness of the Texas Integrated Enrollment Services in providing necessary services to the people of this state, with recommendations for any necessary research; and

(3) recommendations for legislative action.

The amendment was read.

Senator Barrientos offered the following amendment to Floor Amendment No. 1:



**Floor Amendment No. 1A**

Amend Floor Amendment No. 1 to **CSHB 2777** by amending Sec. 531.053.(a), by adding a new subsection as follows:

"(4) hold public hearings concerning the development and implementation of the plan in at least four geographically diverse locations in the state.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 2777** as follows:

On page 2, line 1, after the phrase "of subsections (a) and (b)", insert the following:

Within 10 days after the release of a request for bids, proposals, offers, or other applicable expressions of interest relating to the development or the implementation of a plan for the integration of services and functions relating to eligibility determination and service delivery, the commission shall hold a public hearing and receive public comment on the request. The commission may coordinate with a legislative committee to hold the hearings.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSHB 2777** as follows:

On page 1, line 29, strike the everything after "agencies" through the word "clients" on page 1, line 34, and insert the following:

"The plan shall be limited to the design and development of computer hardware and software for and technical support related to the integrated eligibility determination system."

The amendment was read.

On motion of Senator Ratliff, Floor Amendment No. 3 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Nays: Barrientos, Cain, Ellis, Gallegos, Lucio, Luna, Madla, Shapleigh, Truan, West, Whitmire, Zaffirini.

Senator Nixon offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSHB 2777**, committee printing, on page 2, line 7, by inserting a new SECTION 2. as follows, and renumber the remaining SECTIONS appropriately:

SECTION 2. Section 11(d) and Section 12, Chapter 885, Acts of the 74th Legislature, Regular Session, 1995, is repealed.

The amendment was read and was adopted by a viva voce vote.

**CSHB 2777** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2777 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2777** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**CSHB 2777** was read third time and was passed by the following vote: Yeas 31, Nays 0.

**GUESTS PRESENTED**

Senator Gallegos was recognized and introduced to the Senate a group of students and their teachers from Port Houston Elementary School of Houston.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 92 ON SECOND READING**

Senator Whitmire moved to suspend the regular order of business to take up for consideration at this time:

**CSHB 92**, Relating to the financing of sports and community venues and related infrastructure; authorizing the imposition of certain local taxes and the issuance of local bonds; providing penalties.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Lucio, Luna, Madla, Moncrief, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Galloway, Haywood, Lindsay, Nelson, Ogden.

**CSHB 92** was read second time.

**(President in Chair)**

Senator Patterson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 92** on page 2, line 27 of the committee report by inserting the a new section 334.006 as follows:

Sec. 334.006. PROHIBITION AGAINST TAX EXPANSION. In a county with a population of over 2.8 million, no tax on real property or on personal property may be used for the operation, maintenance, renovation, or repair of any venue authorized by an election on November 5, 1996 and constructed after that date.

The amendment was read and was adopted by a viva voce vote.

**Floor Amendment No. 2 was not offered.**

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend CSHB 92 as follows:

On page 5, delete lines 21-24 and insert in lieu thereof the following:

"(f) A municipality or county may not use revenue derived from ad valorem taxes to construct, operate, maintain, or renovate a venue that is part of an approved venue project."

The amendment was read and was adopted by a viva voce vote.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend CSHB 92 as follows:

On page 5, line 29, between the words "representative" and "for", insert the following:

"on or before November 1, 1998".

and, on page 21, line 8, between the words "representative" and "for", insert the following:

"on or before November 1, 1998".

The amendment was read and was adopted by a viva voce vote.

#### RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 4.

**Floor Amendment No. 5 was not offered.**

**Floor Amendment No. 6 was not offered.**

Senator Cain offered the following amendment to the bill:

**Floor Amendment No. 6A**

Amend CSHB 92 as follows:

(1) In Subsection (b), Section 334.085, Local Government Code, page 7, line 38 as added by Section 1 of the bill, strike "If a municipality or county" and substitute "Except as provided by Section 334.0855, if a municipality or county".

(2) In Subchapter D, Chapter 334, Local Government Code, as added by Section 1 of the bill, insert a new Section 334.0855 to read as follows:

Sec. 334.0855. IMPOSITION IN CERTAIN MUNICIPALITIES AND COUNTIES. This section applies only to a:

(1) municipality that is included in a regional transportation authority created under Chapter 452, Transportation Code; and

(2) county that is included within the boundaries of a regional transportation authority created under Chapter 452, Transportation Code.

(b) If the adoption or increase of the tax under this subchapter would otherwise result under Section 334.085 in the reduction of the tax rate of the transportation authority, the election to approve or increase the tax under this subchapter is to be treated for all purposes as an election to withdraw from the authority in accordance with and subject to Subchapter O, Chapter 452, Transportation Code.

(c) The ballot language at an election to which this section applies must clearly state that the adoption or increase of the tax under this subchapter will result in the withdrawal of the municipality or county from the transportation authority.

(d) A municipality or county subject to this section that votes to adopt or increase the tax under this subchapter may not impose that tax before the date on which the municipality's or county's financial obligations to the authority are satisfied in accordance with Subchapter O, Chapter 452, Transportation Code.

The amendment was read and was adopted by a viva voce vote.

Senator Nelson offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **CSHB 92**, as follows:

(1) Delete all language beginning with and including the hyphenated underlined word "**SHORT-TERM**" on page 8, line 8-35, and ending with and including the underlined period following the underlined letter "**F**" on page 10, line 10-56.

(2) On page 12, line 12-5, delete the underlined letter "**G**" and insert the following after the word "**SUBCHAPTER**": "**F**".

(3) On page 13, line 13-14, delete the underlined letter "**H**" and insert the following after the word "**SUBCHAPTER**": "**G**".

(4) On page 14, line 14-35, delete the underlined letter "**I**" and insert the following after the word "**SUBCHAPTER**": "**H**".

(5) On page 15, line 15-55, delete the underlined letter "**I**" and insert the following after the word "**SUBCHAPTER**": "**I**".

The amendment was read.

On motion of Senator Whitmire, Floor Amendment No. 7 was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Barrientos, Bivins, Brown, Ellis, Gallegos, Harris, Lindsay, Lucio, Madla, Moncrief, Nixon, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Cain, Carona, Duncan, Fraser, Galloway, Haywood, Luna, Nelson, Ogden, Shapiro.

**Floor Amendment No. 8 was not offered.**

Senator Carona offered the following amendment to the bill:

**Floor Amendment No. 9**

Amend CSHB 92, as follows:

(1) On page 9, delete all language beginning with and including the word "Except" on line 9-2, and ending with and including the word "the" on line 9-3, and insert the following after the subsection designator "(a)" on line 9-2: "The".

(2) On page 9, line 9-5 delete the figure "10" and insert the figure "5" after the word exceed.

(3) On page 9, delete all language beginning with and including the word "In" on line 9-7, and ending with and including the subsection designator "(c)" on line 9-13.

(4) On page 9, line 9-17, delete the following language: "or 10 percent, as applicable.".

(5) On page 9, beginning at the end of line 9-18, delete the following language: "or 10 percent, as applicable.".

(6) On page 9, line 9-27, delete the following language: "or 10 percent, as applicable.".

The amendment was read and was adopted by a viva voce vote.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 10**

Amend CSHB 92 by striking Section 334.252(b), Local Government Code, as added by SECTION 1 of the bill (committee printing, page 13, lines 29-37), and substituting a new Subsection (b) to read as follows:

(b) An eligible entity means:

(1) a municipality with a population of more than 1.2 million or a county with a population of more than 2.2 million if the municipality and the county have joined together to form a sports and community venue district under Chapter 335;

(2) a municipality with a population of more than one million or a county with a population of more than 1.5 million that is not included in Subdivision (1); or

(3) a municipality with a population of less than 200,000 in the boundaries of which is contained a professional sports facility with a seating of at least 60,000 seats that has been in existence and used for professional sports activities for at least 25 years.

The amendment was read.

On motion of Senator West and by unanimous consent, Floor Amendment No. 10 was withdrawn.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 11**

Amend CSHB 92 by striking proposed Section 334.255, Local Government Code in SECTION 1 of the bill and substituting the following:

Sec. 334.255 TAX RATE. (a) The tax authorized by this subchapter may be imposed by a municipality or county described by Sections 334.252(a) and (b) at any rate not to exceed two percent of the price paid for a room in a hotel.

The amendment was read.

On motion of Senator Bivins and by unanimous consent, Floor Amendment No. 11 was withdrawn.

**Floor Amendment No. 12 was not offered.**

**Floor Amendment No. 13 was not offered.**

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 14**

Amend **CSHB 92** by deleting proposed Sec. 335.076. COUNTY VENUE DISTRICT.

The amendment was read.

On motion of Senator Barrientos and by unanimous consent, Floor Amendment No. 14 was temporarily withdrawn.

Question—Shall **CSHB 92** as amended be passed to third reading?

**AT EASE**

The President at 2:05 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

#### **IN LEGISLATIVE SESSION**

Senator Lindsay at 2:08 p.m. called the Senate to order as In Legislative Session.

#### **MESSAGE FROM THE HOUSE**

**HOUSE CHAMBER**

Austin, Texas

Tuesday, May 20, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:**

**HB 107** (Viva-voce vote)

**HB 1091** (Viva-voce vote)

**HB 1200** (91 Yeas 47 Nays 1 Present-not voting)

**HB 1279** (138 Yeas 0 Nays 1 Present-not voting)

**HB 1280** (138 Yeas 1 Nays 0 Present-not voting)

**HB 1345** (138 Yeas 0 Nays 1 Present-not voting)

**HB 1855** (Viva-voce vote)

**HB 1870** (136 Yeas 0 Nays 1 Present-not voting)

**HB 2519** (Viva-voce vote)

**HB 2683** (Viva-voce vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 2918**

House Conferees: Place - Chair/Edwards/Farrar/Reyna, Arthur/Talton

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 273**

House Conferees: Cuellar - Chair/Chavez/Maxey/Naishtat/Pitts

**SJR 33**

House Conferees: Gallego - Chair/Eiland/Price/Swinford/Walker

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**AT EASE**

The Presiding Officer at 2:09 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

The President at 2:20 p.m. called the Senate to order as In Legislative Session.

Question—Shall **CSHB 92** as amended be passed to third reading?

Senator Barrientos again offered the following amendment to the bill:

**Floor Amendment No. 14**

Amend **CSHB 92** by deleting proposed Sec. 335.076. COUNTY VENUE DISTRICT.

The amendment was again read and was adopted by a viva voce vote.

Senator Gallegos offered the following amendment to the bill:

**Floor Amendment No. 15**

Amend **CSHB 92** as follows:

Delete Section 334.252 (lines 17 through 37 on page 13 of the committee printing).

On page 13 (of the committee printing), strike lines 62 through 67 and insert the following: "Sec. 334.255. TAX RATE. (a) The tax authorized by this subchapter may be imposed by a municipality or county at any rate not to exceed two percent of the price paid for a room in a hotel."

On page 14, line 3 (committee printing), strike "five percent or two percent, as applicable," and insert: "two percent".

Renumber all respective subsequent sections.

The amendment was read and was adopted by a viva voce vote.

**Floor Amendment No. 16 was not offered.**

**(Senator Brown in Chair)**

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 17**

Amend **CSHB 92** as follows:

(1) On page 7, line 44, between "authority" and "to", insert "(except a Rapid Transit Authority created under Ch. 451, Transportation Code,"

(2) On page 7, at the end of subsection 334.085(b), add subsections (b)(1):

"(1) If the voters choose reduction of the tax collected by a Rapid Transit Authority created under Ch. 451, Transportation Code, and imposition of the tax authorized under this section would result in a reduction of the Rapid Transit Authority's tax rate to the highest rate that will not result in a combined tax rate of more than two percent in any location in the municipality or county, an election must be held pursuant to Subchapter M, Sec. 451.601 et. seq., Transportation Code, as applicable for the type of authority involved, on the question of withdrawing the affected municipalities from the authority prior to imposition of the tax authorized in this section. If withdrawal is not authorized, the tax may not be imposed unless authorized pursuant to subsequent election(s). Upon withdrawal of each affected municipality from the authority (if withdrawal is authorized), the obligation to provide service (including service to persons with disabilities) shall be discontinued for that municipality except as required under applicable federal law. In all other respects, the provisions of Subchapter M governing withdrawal procedures and obligations of municipalities upon withdrawal, shall apply.

MADLA  
WENTWORTH

The amendment was read and was adopted by a viva voce vote.

**CSHB 92** as amended was passed to third reading by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Harris, Lucio, Luna, Madla, Moncrief, Nixon, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Galloway, Haywood, Lindsay, Nelson, Ogden, Shapiro.



**COMMITTEE SUBSTITUTE  
HOUSE BILL 92 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional rule requiring bills to be read on three several days be suspended and that **CSHB 92** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Lucio, Luna, Madla, Moncrief, Nixon, Ogden, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Galloway, Haywood, Lindsay, Nelson, Shapiro.

**CSHB 92** was read third time and was passed by the following vote: Yeas 23, Nays 7, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Cain, Carona, Ellis, Fraser, Gallegos, Harris, Lucio, Luna, Madla, Moncrief, Nixon, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Galloway, Haywood, Lindsay, Nelson, Ogden, Shapiro.

Present-not voting: Brown.

**SENATE CONCURRENT RESOLUTION 44  
ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time its second reading:

**SCR 44**, Encouraging the Texas Board of Criminal Justice, Texas Youth Commission, Juvenile Probation Commission, county commissioners, and sheriffs to support faith-based correctional programming and facilities.

The resolution was read second time and was adopted by a viva voce vote.

(President in Chair)

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 1136 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration at this time:

**CSSB 1136**, Relating to the authority of a political subdivision to prepare and implement a regional habitat conservation plan or habitat conservation plan or to enter into a conservation agreement.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Nays: Armbrister, Barrientos, Ellis, Gallegos, Luna, Madla, Moncrief, Shapleigh, Truan, West, Whitmire, Zaffirini.

(Senator Truan in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1445 ON SECOND READING**

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**CSHB 1445**, Relating to the continuation and functions of the Texas Racing Commission and to the transfer of certain commission functions to the Texas Department of Commerce; providing penalties.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up **CSHB 1445** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Fraser, Harris, Haywood, Lucio, Madla, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Truan, Wentworth, Zaffirini.

Nays: Duncan, Ellis, Gallegos, Galloway, Lindsay, Ogden, Shapleigh, Sibley, Whitmire.

Absent: Luna, West.

**CSHB 1445** was read second time.

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1445** in SECTION 37 of the bill, in Section 11.011, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) by adding a new Subsection (m) to read as follows:

"(m) The commission shall not approve wagering on an interstate simulcast race unless the receiving location consents to wagering on interstate simulcast races at all other receiving locations in this state."

The amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 1445** as follows:

(1) In SECTION 27 of the bill, in added Section 6.091(d)(2), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) after the end of the sentence ending with the word "state" add the following sentence: "The breed

registry may use not more than 20 percent of this amount to administer this Subsection."

(2) In SECTION 37 of the bill, in added Section 11.011(1), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) after the word "racing" add ", breeding, purses and any actual or potential loss of live racing handle based on the association's historical live racing schedule and handle".

The amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

#### **Floor Amendment No. 3**

Amend CSHB 1445 by adding a new SECTION, appropriately numbered, to read as follows:

SECTION \_\_. Section 151.0035, Tax Code, is amended to read as follows:

Sec. 151.0035. "Data Processing Service"

"Data processing service" includes word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, the performance of a totalisator service with the use of computational equipment required by the Texas Racing Act, (Article 179e, Vernon's Texas Civil Statutes) and other computerized data and information storage of manipulation. "Data processing service" also includes the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service.

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

#### **Floor Amendment No. 4**

Amend CSHB 1445 as follows:

(1) In SECTION 37 of the bill, in proposed Section 11.011(h), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (committee printing page 22, lines 51-52), strike "the nearest greyhound racetrack" and substitute "any greyhound racetrack within 60 miles".

(2) In SECTION 37 of the bill, in proposed Section 11.011(h), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (committee printing page 22, lines 54-58), strike "the horse racetrack may purchase and offer wagering on greyhound race simulcast signals and shall pay the amounts specified under Subsection (d)(1) of this section to the nearest greyhound racetrack" and substitute "the commission shall, after reviewing an application by either the horse racetrack or the greyhound racetrack, set the terms of the purchase of simulcast signals. The commission shall make a decision not later than the 60th day after the date of receipt of the application".

(3) In SECTION 37 of the bill, in proposed Section 11.011(i), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (committee printing page 22, lines 64-67), strike "the greyhound racetrack may purchase and offer

wagering on interstate horse race simulcast signals and shall pay the amounts specified in Subsection (c)(1) of this section to the nearest Class 1 horse racetrack" and substitute "the commission shall, after reviewing an application by either the horse racetrack or the greyhound racetrack, set the terms of the purchase of simulcast signals. The commission shall make a decision not later than the 60th day after the date of receipt of the application".

(4) In SECTION 27 of the bill, in proposed Section 6.091(c), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), (committee printing page 17, line 69 through page 18, line 1), strike "a fee of 1.5 percent to be paid to the racetrack facility in this state sending the signal" and substitute "a fee to be set pursuant to the provisions of Section 11.011".

(5) In SECTION 27 of the bill, in proposed Subsections (e) and (f) of Section 6.091, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), (committee printing page 18, lines 21-52), strike proposed Subsections (e) and (f) and substitute "(e) The purse set aside under Subsection (c)(4) of this section shall be deposited into an escrow account in the registry of the commission, to be used solely for purses at the Texas horse racetrack that provided the cross-species simulcast signal." and reletter subsequent subsections accordingly.

(6) In SECTION 46 of the bill, in proposed Section 16.021, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), (committee printing page 30, line 4), strike "The" and substitute "Subject to compliance with the provisions of Section 11.011, the".

The amendment was read.

Senator Armbrister offered the following amendment to Floor Amendment No. 4:

**Floor Amendment No. 5**

Amend Floor Amendment No. 4 to **CSHB 1445** as follows:

In paragraphs (2) and (3) of the amendment, add the following sentence to the substituted language:

"The commission shall set the terms of the purchase in accordance with industry standards for hub and transmission fees for similarly situated racetracks as those making the application."

The amendment to Floor Amendment No. 4 was read and was adopted by a viva voce vote.

The question recurred on the adoption of Floor Amendment No. 4 as amended.

On motion of Senator Armbrister, Floor Amendment No. 4 as amended was tabled by the following vote: Yeas 16, Nays 13.

Yeas: Armbrister, Bivins, Brown, Carona, Harris, Lucio, Luna, Madla, Moncrief, Nelson, Patterson, Shapiro, Truan, Wentworth, West, Zaffirini.

Nays: Barrientos, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Nixon, Ogden, Shapleigh, Sibley, Whitmire.

Absent: Cain, Ratliff.

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend CSHB 1445 as follows:

(1) In SECTION 16 of the bill, in added Section 3.16, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (committee printing, page 9, line 50) strike the word "summary".

(2) In SECTION 27 of the bill, in added Section 6.091(d), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (committee printing, page 18, line 14) change "(c)" to "(a)".

(3) In SECTION 27 of the bill, in added Section 6.091(e), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (committee printing, page 18, lines 23 and 26) strike "Class 1" wherever it appears and substitute "horse".

(4) In SECTION 27 of the bill, strike added Section 6.091(h), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (committee printing, page 18, lines 59-63) and substitute the following:

"(h) A racetrack facility offering wagering on an intrastate cross-species simulcast signal shall send the purse amount specified under Subsection (c)(4) or (d)(2) of this section, as appropriate, to the racetrack facility conducting the live race that is being simulcast."

(5) In SECTION 37 of the bill, in added Section 11.011(l), Texas Racing Act (Vernon's Texas Civil Statutes) (committee printing, page 23, line 11) strike "must" in the first sentence and substitute "shall".

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend CSHB 1445, Sec. 16.021, to read as follows:

Sec. 16.021. APPROVAL OF CROSS-SPECIES SIMULCAST RACES. A county in which there is a racetrack conducting live racing shall hold an election to approve pari-mutuel wagering on cross-species simulcast greyhound or horse races if such wagering was not approved when the original wagering was approved by the local voters and subsequently approved by the commission.

The amendment was read.

On motion of Senator Armbrister, Floor Amendment No. 7 was tabled by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend CSHB 1445 by striking SECTION 38 in its entirety.

The amendment was read.

Senator Lucio moved to table Floor Amendment No. 8.

The motion to table Floor Amendment No. 8 was lost by the following vote: Yeas 14, Nays 17.

Yeas: Armbrister, Barrientos, Brown, Ellis, Gallegos, Lucio, Luna, Madla, Shapleigh, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley.

Question recurring on the adoption of Floor Amendment No. 8, the amendment was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 9**

Amend **CSHB 1445** by striking, on page 2, line 15, Subsection (79), definition for simulcasting facility.

The amendment was read and was adopted by a viva voce vote.

**CSHB 1445** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1445 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1445** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Ellis, Gallegos, Haywood, Lindsay.

**CSHB 1445** was read third time and was passed by a viva voce vote.

(Senator Sibley in Chair)

**PERMISSION TO MEET GRANTED**

On motion of Senator Armbrister and by unanimous consent, the Committee on Tax Reform and Public School Finance was granted permission to meet while the Senate was in session.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 381 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 381**, Relating to farm, industrial, off-road construction, or outdoor power equipment.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 381** by striking all below the enacting clause and substituting the following:

SECTION 1. The heading of Chapter 19, Business & Commerce Code, is amended to read as follows:

**CHAPTER 19. FARM, INDUSTRIAL, OFF-ROAD CONSTRUCTION,  
AND OUTDOOR POWER EQUIPMENT DEALER AGREEMENTS**

SECTION 2. Section 19.01, Business & Commerce Code, is amended by amending Subdivisions (5) and (8) and adding Subdivision (12) to read as follows:

(5) "Dealer" means a person in the business of the retail sale of equipment. The term does not include a single line dealer primarily engaged in the retail sale and service of off-road construction and earthmoving [person whose principal business is the sale of off-road construction] equipment.

(8) "Equipment" means farm tractors, farm implements, utility tractors, industrial tractors, off-road construction equipment, and outdoor power equipment and the attachments to or repair parts for those items.

(12) "Single line dealer" means a person, partnership, or corporation that:

(A) has purchased 75 percent or more of the dealer's total new product inventory from a single supplier under all agreements with that supplier; and

(B) has a total annual average sales volume for the preceding three years with that single supplier in excess of \$100 million for the territory for which that dealer is responsible within the state.

SECTION 3. Subchapter B, Chapter 19, Business & Commerce Code, is amended by adding Section 19.28 to read as follows:

Sec. 19.28. WARRANTY CLAIM. (a) This section applies to a warranty claim submitted by a dealer:

(1) while the dealer agreement is in effect; or

(2) after the termination of the dealer agreement, if the claim is for work performed before the effective date of the termination.

(b) Not later than the 30th day after the date a supplier receives a warranty claim from a dealer, the supplier shall accept or reject the claim. A claim not rejected before that deadline is deemed accepted.

(c) Not later than the 30th day after the date the claim is accepted or rejected, the supplier shall:

(1) pay an accepted claim; or

(2) send the dealer written notice of the grounds for rejection of a rejected claim.

(d) A supplier that pays a claim, including a supplier of an electric engine or motor, may not pay less than the hourly labor rate and other expenses involved in the work that the dealer regularly charges to a retail customer who does not assert a warranty and the dealer's net price plus 15 percent for parts. The number of hours of labor claimed may not exceed 1-1/2 times the supplier's recommended hours for the repair involved.

(e) After payment of a claim, a supplier may not charge back, set off, or otherwise attempt to recover all or part of the amount of the claim unless:

(1) the claim was fraudulent;

(2) the work for which the claim was made was not properly performed or was unnecessary to comply with the warranty; or

(3) the dealer did not substantiate the claim according to the written requirements of the supplier in effect when the claim arose.

SECTION 4. Section 19.43(a), Business & Commerce Code, is amended to read as follows:

(a) If on termination of a dealer agreement the dealer delivers to the supplier or a person designated by the supplier the inventory that was purchased from the supplier and that is held by the dealer on the date of the termination, the supplier shall pay to the dealer:

(1) the dealer cost of new, unsold, undamaged, and complete farm tractors, farm implements, utility tractors, industrial tractors, forklifts, material-handling equipment, outdoor power equipment, off-road construction equipment, and attachments returned by the dealer;

(2) an amount equal to 85 percent of the current price of new, undamaged repair parts returned by the dealer; and

(3) an amount equal to an additional five percent of the current price of new, undamaged repair parts returned by the dealer, unless the supplier performs the handling, packing, and loading of the parts, in which case no additional amount is required under this subdivision.

SECTION 5. Section 19.46, Business & Commerce Code, is repealed.

SECTION 6. The change in law made by this Act applies only to a warranty claim received by a supplier on or after the effective date of this Act. A warranty claim received before the effective date of this Act is governed by the law in effect when the claim was received, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 1997.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

#### **SENATORS ANNOUNCED ABSENT-EXCUSED**

On motion of Senator Truan, Senators Armbrister, Bivins, Harris, Luna, and Shapiro were announced "Absent-excused" on account of important business.

**CSHB 381** as amended was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 381 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 381** be placed on its third reading and final passage.



The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**CSHB 381** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 3590 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3590**, Relating to the creation, administration, powers, duties, operation, and financing of the San Patricio Groundwater Conservation District.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **HB 3590** as follows:

In **SECTION 5** of the bill, add a new subsection (c) to read as follows:

(c) Notwithstanding Subsection (a) of this Section, the following provisions prevail over a conflicting or inconsistent provision in this Act:

- (1) Sections 36.107-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Water Code.

The committee amendment was read and was adopted by a viva voce vote.

**HB 3590** as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 3590 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3590** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 3590** was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 2776 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2776**, Relating to the regulation of state superfund sites.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2776 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2776** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**CSHB 2776** was read third time and was passed by a viva voce vote.

**HOUSE BILL 66 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 66**, Relating to unfunded state mandates on political subdivisions.

The bill was read second time.

Senator Zaffirini offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 66**, in Section 320.002 by striking all of subdivision (3) and renumbering the subsequent subdivisions accordingly.

The committee amendment was read and was adopted by a viva voce vote.

Senator Zaffirini offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 66**, in Section 320.003 as follows:

- (1) On page 3, line 17, strike "or".
- (2) On page 3, line 19, strike "." and insert ", or
- (4) affecting employee pensions and benefits."

The committee amendment was read and was adopted by a viva voce vote.

**HB 66** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 66 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 66** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 66** was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

**HOUSE BILL 2618 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2618**, Relating to disciplinary proceedings and investigation of a complaint against a social worker.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2618 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2618** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 2618** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 332 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 332**, Relating to election precincts and polling places; providing a criminal penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 332 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 332** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**CSHB 332** was read third time and was passed by a viva voce vote.

**HOUSE BILL 1209 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1209**, Relating to payments to vendors doing business with state government.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1209 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1209** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 1209** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2778 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2778**, Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2778 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2778** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**CSHB 2778** was read third time and was passed by a viva voce vote.

**HOUSE BILL 1865 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1865**, Relating to payment of accelerated life insurance benefits.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1865 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1865** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 1865** was read third time and was passed by a viva voce vote.

**HOUSE BILL 564 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 564**, Relating to certain hearings and investigations conducted by the Texas Workforce Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 564 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 564** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 564** was read third time and was passed by a viva voce vote.

**MOTION TO PLACE****HOUSE BILL 3161 ON SECOND READING**

Senator Duncan asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 3161**, Relating to medical examinations required for an employee who may be entitled to workers' compensation benefits; providing an administrative penalty.

There was objection.

Senator Duncan then moved to suspend the regular order of business and take up **HB 3161** for consideration at this time.

The motion was lost by the following vote: Yeas 17, Nays 9. (Not receiving two-thirds vote of Members present)

Yeas: Brown, Cain, Carona, Duncan, Fraser, Galloway, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Sibley, Wentworth, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Lucio, Madla, Shapleigh, Truan, West, Whitmire.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HOUSE BILL 3016 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3016**, Relating to the transfer of certain state property from the Texas Department of Criminal Justice to Jefferson County.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3016** by adding a new SECTION 2 to read as follows, and renumbering the existing SECTIONS accordingly:

SECTION 2. (a) The Texas Department of Criminal Justice may donate and transfer to Walker County the real property described by subsection (d) of this section.

(b) The Texas Department of Criminal Justice may transfer the property by an appropriate instrument of transfer which must include a provision that:

(1) requires Walker County to use the property only for a purpose that benefits the public interest;

(2) indicates that ownership of the property will automatically revert to the Texas Department of Criminal Justice if Walker County uses the property for any purpose other than a purpose which benefits the public interest; and

(3) describes the property to be transferred by metes and bounds.

(c) The Texas Department of Criminal Justice shall retain custody of the instrument of transfer after its filing.

(d) The real property referred to in Subsection (a) of this section is a tract or parcel not to exceed ten acres of land situated in the city of Huntsville, out of and a part of the Pleasant Gray Survey, Abstract No. 24, Walker County, Texas, and being out of and a part of a called 515 acre tract as described in a Deed from Ed H. Cunningham, et al to the State of Texas (Texas Department of Corrections), dated June 23, 1883, and recorded in Volume Y, Page 181, Deed Records.

The amendment was read and was adopted by a viva voce vote.

**HB 3016** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3016 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3016** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 3016** was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

**HOUSE BILL 3448 ON SECOND READING**

Senator Carona asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 3448**, Relating to the authorization of a closed meeting by the commissioners court of a county to deliberate certain personnel actions affecting a member of an advisory body.

There was objection.

Senator Carona then moved to suspend the regular order of business and take up **HB 3448** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 1.

Nays: Ogden.

Absent: Barrientos.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 3448** was read second time and was passed to third reading by a viva voce vote.

#### RECORD OF VOTE

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### HOUSE BILL 3448 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3448** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 1.

Nays: Ogden.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 3448** was read third time and was passed by the following vote: Yeas 23, Nays 3.

Yeas: Barrientos, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Patterson, Ratliff, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden, Shapleigh, Truan.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

#### HOUSE BILL 2029 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2029**, Relating to retirement because of disability under the Employees Retirement System of Texas.

The bill was read second time and was passed to third reading by a viva voce vote.

#### HOUSE BILL 2029 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2029** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 2029** was read third time and was passed by a viva voce vote.

**HOUSE BILL 3031 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3031**, Relating to the authority of the commissioner of insurance to approve higher deductibles on coverage provided under certain policies issued through the Texas Catastrophe Property Insurance Association.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 3031 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3031** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Armbrister, Bivins, Harris, Luna, Shapiro.

**HB 3031** was read third time and was passed by a viva voce vote.

**SENATORS ANNOUNCED PRESENT**

Senators Armbrister, Luna, and Shapiro, who had previously been recorded as "Absent-excused," were announced "Present."

**HOUSE BILL 3492 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3492**, Relating to the Texas Committee on Energy Policy and the Texas Energy Coordination Council.

The bill was read second time and was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Haywood asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 3492 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3492** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Haywood.

Absent-excused: Bivins, Harris.

**HB 3492** was read third time and was passed by a viva voce vote.



**RECORD OF VOTE**

Senator Haywood asked to be recorded as voting "Nay" on the final passage of the bill.

**SENATORS ANNOUNCED PRESENT**

Senators Bivins and Harris, who had previously been recorded as "Absent-excused," were announced "Present."

(Senator Brown in Chair)

**HOUSE BILL 625 ON SECOND READING**

Senator Madla asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 625**, Relating to the disclosure of certain information submitted to a governmental entity by a potential vendor or contractor.

There was objection.

Senator Madla then moved to suspend the regular order of business and take up **HB 625** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson, Ogden.

**HB 625** was read second time and was passed to third reading by a viva voce vote.

**RECORD OF VOTES**

Senators Nelson and Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 625 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 625** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson, Ogden.

**HB 625** was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

**HOUSE BILL 2482 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2482**, Relating to the establishment of an accreditation program for child-care facilities and child-placing agencies as an alternative to state licensure; providing a criminal penalty.

The bill was read second time.

Senator Sibley offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2482** as follows:

1) On page 2, line 4, strike "and".

2) On page 2, line 5, insert the following between "(2)" and "demonstrate":

not have any person serve as a member of the governing body of the accrediting organization who has a proprietary or financial interest in a child care facility or child-placing agency that is accredited by the accrediting organization; and

(3)

The committee amendment was read and was adopted by a viva voce vote.

**HB 2482** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 2482 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2482** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Truan.

**HB 2482** was read third time.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2482** as follows:

Add the Section below by adding it to the bill appropriately and renumber remaining sections:

This Act is abolished unless reenacted by the Legislature in 4 years from date of enactment.

The amendment was read and was adopted by unanimous consent.

**HB 2482** as amended was finally passed by a viva voce vote.

**RECORD OF VOTE**

Senator Truan asked to be recorded as voting "Nay" on the final passage of the bill.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**SR 777** - by Whitmire: Congratulating Christopher Thomas Towe of Sugar Land.

**SR 778** - by Madla: Commending the eighth-grade class of Marfa Junior High School.

**SR 779** - by Nelson: Congratulating Ben E. Harmon of Lewisville.

**SR 780** - by Wentworth: Congratulating the Reverend Clyde W. Chesnutt, Jr., of Lake Travis.

**SR 781** - by Lindsay: Welcoming employees in the field of public works to Austin for National Public Works Week.

**SR 782** - by Barrientos: Welcoming Edward Asner on his visit to the Texas State Capitol.

**SR 783** - by Cain: Congratulating Britt Luneborg of Dallas.

**SR 784** - by Cain: Congratulating Kykenjeula Johnson of Tyler.

**SR 785** - by Shapleigh: Congratulating Lawrence Francis of El Paso.

**HCR 248** - (Nelson): Congratulating Ben E. Harmon.

**HCR 259** - (Shapiro): Congratulating Dr. John L. Rumley.

**ADJOURNMENT**

On motion of Senator Truan, the Senate at 5:48 p.m. adjourned, in memory of Mrs. Marilyn Nelson, until 9:30 a.m. tomorrow.

Mrs. Nelson was the mother-in-law of Senator Nelson and was an active leader in Denton County civic affairs. She died at the age of 64.

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**APPENDIX**

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**SENT TO GOVERNOR**

May 20, 1997

**SB 66, SB 85, SB 96, SB 113, SB 208, SB 262, SB 320, SB 412, SB 483, SB 500, SB 557, SB 566, SB 605, SB 620, SB 663, SB 682, SB 703, SB 725, SB 735, SB 770, SB 820, SB 874, SB 909, SB 925, SB 970, SB 975, SB 993, SB 1057, SB 1165, SB 1177, SB 1273, SB 1290, SB 1304, SB 1333, SB 1334, SB 1380, SB 1385, SB 1403, SB 1506, SB 1544, SB 1568, SB 1574, SB 1609, SB 1610, SB 1631, SB 1656, SB 1661, SB 1756, SB 1849, SB 1878, SB 1906, SCR 35, SCR 79, SCR 80, SCR 82, SCR 83, SCR 84, SCR 86, SCR 87**

